

Exhibit 21

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and)
mother, HEATHER JACKSON,)
Plaintiff,)
vs.) Case No.
WEST VIRGINIA STATE BOARD OF) 2:21-cv-00316
EDUCATION, HARRISON COUNTY)
BOARD OF EDUCATION, WEST)
VIRGINIA SECONDARY SCHOOL)
ACTIVITIES COMMISSION, W.)
CLAYTON BURCH in his official)
capacity as State)
Superintendent, DORA STUTLER,)
in her official capacity as)
Harrison County)
Superintendent, and THE STATE)
OF WEST VIRGINIA,)
Defendants,)
LAINEY ARMISTEAD,)
Defendant-Intervenor.)

REMOTE VIDEOTAPED DEPOSITION OF
LAINEY ARMISTEAD
Friday, March 11, 2022
Volume I

Reported by:
ALEXIS KAGAY, CSR No. 13795
Job No. 5082427
PAGES 1 - 175

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J. by her next friend and)
mother, HEATHER JACKSON,)
Plaintiff,)
vs.) Case No.
WEST VIRGINIA STATE BOARD OF) 2:21-cv-00316
EDUCATION, HARRISON COUNTY)
BOARD OF EDUCATION, WEST)
VIRGINIA SECONDARY SCHOOL)
ACTIVITIES COMMISSION, W.)
CLAYTON BURCH in his official)
capacity as State)
Superintendent, DORA STUTLER,))
in her official capacity as)
Harrison County)
Superintendent, and THE STATE)
OF WEST VIRGINIA,)
Defendants,)
LAINEY ARMISTEAD,)
Defendant-Intervenor.))

Videotaped deposition of LAINEY ARMISTEAD,
Volume I, taken on behalf of Plaintiff, with all
participants appearing remotely, beginning at
12:03 p.m. and ending at 5:03 p.m. on Friday,
March 11, 2022, before ALEXIS KAGAY, Certified
Shorthand Reporter No. 13795.

1 APPEARANCES (via Zoom Videoconference):

2

3 For the Intervenor:

4 ALLIANCE DEFENDING FREEDOM

5 BY: CATIE KELLEY

6 BY: JONATHAN SCRUGGS

7 BY: CHRISTIANA HOLCOMB

8 BY: RACHEL CSUTOROS

9 BY: HAL FRAMPTON

10 BY: TIMOTHY DUCAR

11 Attorneys at Law

12 20116 Ashbrook Place

13 Suite 250

14 Ashburn, Virginia 20147

15 CKelly@adflegal.org

16 JScruggs@adflegal.org

17 CHolcomb@adflegal.org

18 RCsutoros@adflegal.org

19 TDucar@adflegal.org

20

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 For defendants Harrison County Board of Education and
4 Superintendent Dora Stutler:

5 STEPTOE & JOHNSON PLLC

6 BY: SUSAN L. DENIKER

7 Attorney at Law

8 400 White Oaks Boulevard

9 Bridgeport, West Virginia 26330

10 304.933.8154

11 Susan.Deniker@Steptoe-Johnson.com

12

13

14 For the State of West Virginia:

15 WEST VIRGINIA ATTORNEY GENERAL

16 BY: DAVID TRYON

17 Attorney at Law

18 112 California Avenue

19 Charleston West Virginia 25305-0220

20 681.313.4570

21 David.C.Tryon@wvago.gov

22

23

24

25

1 APPEARANCES (Continued):

2

3 For West Virginia Secondary School Activities

4 Commission:

5 SHUMAN MCCUSKEY & SLICER

6 BY: ROBERTA GREEN

7 Attorney at Law

8 1411 Virginia Street E

9 Suite 200

10 Charleston, West Virginia 25301-3088

11 RGreen@Shumanlaw.com

12

13 For West Virginia Board of Education and Superintendent

14 Burch, Heather Hutchens as general counsel for the

15 State Department of Education:

16 BAILEY & WYANT, PLLC

17 BY: KELLY MORGAN

18 Attorney at Law

19 500 Virginia Street

20 Suite 600

21 Charleston, West Virginia 25301

22 KMorgan@Baileywyant.com

23

24

25

1 APPEARANCES (Continued):

2

3 For Plaintiff:

4 LAMBDA LEGAL

5 BY: SRUTI SWAMINATHAN

6 Attorney at Law

7 120 Wall Street

8 Floor 19

9 New York, New York 10005-3919

10 SSwaminathan@lambdalegal.org

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 For The Plaintiff, B.P.J.:

4 COOLEY

5 BY: KATHLEEN HARTNETT

6 BY: ELIZABETH REINHARDT

7 BY: KATELYN KANG

8 BY: ANDREW BARR

9 BY: MATT MARTINEZ

10 BY: JULIE VEROFF

11 Attorneys at Law

12 500 Boylston Street

13 14th Floor

14 Boston, Massachusetts 02116-3740

15 617.937.2305

16 Khartnett@cooley.com

17 EReinhardt@cooley.com

18 KKang@Cooley.com

19 ABarr@Cooley.com

20 MMartinez@Cooley.com

21 JVeroff@cooley.com

22

23

24

25

Page 7

1 APPEARANCES (Continued):

2

3 For the Plaintiff:

4 AMERICAN CIVIL LIBERTIES UNION

5 BY: JOSHUA A. BLOCK

6 125 Broad Street

7 18th Floor

8 New York, New York 10004

9 JBlock@aclu.org

10 212.549.2500

11

12 Also Present:

13 MITCH REISBORD - VERITEXT CONCIERGE

14

15 Videographer:

16 DAVE HALVORSON

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS

EXAMINATION

LAINEY ARMISTEAD

Volume I

BY MR. BARR

14

EXHIBITS

NUMBER

DESCRIPTION

PAGE

Exhibit 43	West Virginia State University Board of Governors Document, BOG #14 Policy, Title: Unlawful Discrimination and Harassment, Sexual Harassment, Grievance Procedures, Child Abuse and Neglect Reporting and Relationships	122
------------	--	-----

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PREVIOUSLY MARKED EXHIBITS

NUMBER	PAGE
Exhibit 34	78
Exhibit 39	144
Exhibit 40	149

1 Friday, March 11, 2022

2 12:03 p.m.

3 THE VIDEOGRAPHER: Okay. Good afternoon.

4 We are on the record at 12:04 p.m. on

5 March 11th, 2022. This is media unit 1 in the 12:03:44

6 video-recorded deposition of Lainey Armistead in the

7 matter of B.P.J. by Heather Jackson versus

8 West Virginia State Board of Education, et al.

9 It's filed in the U.S. District Court for the

10 Southern District of West Virginia in the Charleston 12:04:04

11 Division. The case number is 2:21-cv-00316.

12 This deposition is being held virtually. My

13 name is Dave Halvorson. I'm the videographer here from

14 Veritext. And I'm here with the court reporter,

15 Alexis Kagay, also from Veritext. 12:04:25

16 Counsel, can you please all identify

17 yourselves so the witness can be sworn in.

18 MR. BARR: Yes. Good afternoon.

19 This is Andrew Barr from the law firm

20 Cooley, LLP. I'll have the rest of my co-counsel 12:04:37

21 introduce themselves before defense and intervenor

22 counsel.

23 THE VIDEOGRAPHER: Okay.

24 MS. HARTNETT: Hi. This is Kathleen Hartnett

25 from Cooley for the plaintiffs. 12:04:48

Page 11

1 MS. VEROFF: This is Julie --

2 MS. KANG: This is --

3 MS. VEROFF: Oh, sorry, Katelyn, go ahead.

4 MS. KANG: Hi. This is Katelyn Kang from
5 Cooley on behalf of the plaintiff.

6 MS. VEROFF: This is Julie Veroff from Cooley,
7 LLP, on behalf of the plaintiff.

8 MS. REINHARDT: This is Elizabeth Reinhardt
9 with Cooley, LLP, for the plaintiff.

10 MS. SWAMINATHAN: This is Sruti --

11 MR. BLOCK: Josh --

12 MS. SWAMINATHAN: -- Swaminathan -- sorry,
13 Josh, go ahead.

14 MR. BLOCK: No, no, you go ahead.

15 MS. SWAMINATHAN: This is Sruti Swaminathan
16 from Lambda Legal on behalf of the plaintiff.

17 MR. BLOCK: Josh Block from the ACLU on behalf
18 of plaintiff.

19 MS. HOLCOMB: If that's everyone from
20 Plaintiff, this is Christiana Holcomb with Alliance 12:05:29
21 Defending Freedom on behalf of the intervenor,
22 Lainey Armistead.

23 And with me, we also have my colleague
24 Hal Frampton, Jonathan Scruggs, Catie Kelley,
25 Rachel Csutoros and Timothy Ducar. 12:05:42

Page 12

1 MS. DENIKER: Good afternoon.

2 This is Susan Deniker, counsel for defendants
3 Harrison County Board of Education and Superintendent
4 Dora Stutler.

5 MS. MORGAN: Kelly Morgan on behalf of the 12:05:56
6 West Virginia Board of Education and
7 Superintendent Burch.

8 MS. ROGERS: This is Shannon Rogers on behalf
9 of the West Virginia Secondary School Activities
10 Commission. And I believe Roberta Green is on Zoom on 12:06:07
11 behalf of the SSAC as well.

12 MS. GREEN: I am. Thank you.

13 MR. TRYON: This is David Tryon from the West
14 Virginia Attorney General's Office on behalf of the
15 State of West Virginia. 12:06:21

16 THE VIDEOGRAPHER: Is that everyone? Last
17 chance.

18 All right. Go ahead, let's swear in the
19 witness, please.

20 (Witness sworn.) 12:06:34

21 THE VIDEOGRAPHER: Please proceed.

22 MR. BARR: Before we get started, I just
23 wanted to memorialize for the record that the parties
24 have agreed that objections to form will preserve all
25 objections other than privilege and that there will be 12:06:58

Page 13

1 no speaking objections on the record.

2 And, Attorney Holcomb, if you could confirm
3 that.

4 MS. HOLCOMB: I concur. Thank you.

5 MR. BARR: Would the rest of defense counsel 12:07:08
6 please also concur.

7 MS. DENIKER: This is Susan Deniker. I'm in
8 agreement with that.

9 MS. MORGAN: This is Kelly Morgan. I'm in
10 agreement. 12:07:22

11 MS. ROGERS: This is Shannon Rogers. I'm in
12 agreement.

13 MR. TRYON: That's fine.

14 MR. BARR: Okay. I believe that's all defense
15 counsel. 12:07:38

16
17 LAINEY ARMISTEAD,
18 having been administered an oath, was examined and
19 testified as follows:

20
21 EXAMINATION

22 BY MR. BARR:

23 Q Good afternoon. My name is Andrew Barr. I'm
24 with the law firm of Cooley, LLP. I'm located in
25 Denver. I use the pronouns of he and him, and I'm 12:07:40

Page 14

1 representing the plaintiff B.P.J. in this case.

2 Would you please state your name and spell it
3 for the record.

4 A Lainey Armistead, L A-I-N-E-Y

5 A-R-M-I-S-T-E-A-D. 12:08:01

6 Q And which pronouns do you use?

7 A She/her.

8 Q Is it okay with you -- is it okay with you if
9 I refer to you as "Ms. Armistead" today?

10 A That's okay. 12:08:14

11 Q Am I pronouncing your name correctly?

12 A Yes.

13 Q So before we get started, I want to discuss a
14 few things about the process for today.

15 The oath you've taken is the same oath you 12:08:28
16 would take in a court of -- courtroom.

17 Do you understand that?

18 A Yes.

19 Q That means you must testify truthfully and not
20 leave out any important facts. 12:08:36

21 Is there any reason you cannot testify
22 truthfully today?

23 A No.

24 Q Okay. Please give verbal answers to my
25 questions. Nonverbal answers, such as nodding or 12:08:45

Page 15

1 shaking your head, can't be reflected in the
2 transcript; and, therefore, I need you to answer
3 verbally.

4 Do you understand?

5 A Yes. 12:08:54

6 Q If you don't understand a question that I ask,
7 I promise you it isn't a trick question; I probably
8 just worded it poorly. So just ask me to ask again,
9 okay?

10 A Okay. 12:09:07

11 Q And what that does mean is if you do not ask
12 me to reword it, I'll assume you understood the
13 question, okay?

14 A Okay.

15 Q At no point today am I asking about the 12:09:17
16 substance of communications that you've had with your
17 attorneys. So if I ask a question and you think that's
18 what I'm asking you, please do not give me any
19 information you have, based on conversation with your
20 attorney, okay? 12:09:32

21 A Got it.

22 Q We're obviously on the -- the Zoom platform,
23 which makes it very important we don't speak over each
24 other. So let me finish my question, and I will let
25 you finish your answer. Understood? 12:09:47

Page 16

1 A Got it.

2 Q And then we're here today talking about
3 House Bill 3293 that's been codified at West Virginia
4 Code 18-2-25d. I'm going to refer to that just as

5 "H.B. 3923" -- or "3293." Is that okay? 12:10:09

6 A Yes.

7 Q I'm also certainly going to mess those numbers
8 up and perhaps call it 3923 or something else.

9 Do you understand that if I talk about
10 House Bill 3293 or a similar set of numbers, I'm 12:10:23
11 actually talking about House Bill 3293?

12 A Yes.

13 Q Okay. There's a couple of words we're going
14 to be using today that I just want to explain to you
15 what I mean by those words so that we have -- we all 12:10:31
16 have a similar understanding about what I'm asking.

17 When I say the word "cisgender," I mean
18 someone whose gender identity matches the sex they were
19 assigned at birth.

20 Do you understand what that means? 12:10:52

21 MS. HOLCOMB: Objection to form.

22 MR. TRYON: Objection.

23 MR. BARR: And, defense counsel, I'm willing
24 to give you a standing objection to terminology
25 throughout this because I feel like we've established, 12:10:58

Page 17

1 over the past couple of weeks, we're just going to have
2 a fundamental disagreement on terminology, and I don't
3 think there's a reason you should have to object every
4 single time I say the word "transgender" or
5 "cisgender." 12:11:11

6 MR. TRYON: I'm objecting -- I'm objecting to
7 your definitional actions -- instructions. Excuse me.

8 MR. BARR: Understood.

9 BY MR. BARR:

10 Q Ms. Armistead, do you know what I mean when I 12:11:23
11 say the word "cisgender"?

12 A I understand what you are referring to.

13 Q Okay. Just to be clear, what am I referring
14 to?

15 A You are talking about a biological male. 12:11:36

16 Q Well, let's -- let's make sure we're all
17 talking about the same thing here.

18 When I say "cisgender," I'm saying someone
19 whose gender identity matches the sex they were
20 assigned at birth. 12:11:52

21 Is that something that you are able to
22 understand moving forward in this deposition?

23 MR. TRYON: Objection.

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: I understand what you are 12:12:04

1 referring to.

2 MR. BARR: Okay. Hold on. My lights just
3 turned off for some reason.

4 I apologize. In making an effort to be
5 environmentally friendly, my lights turn off every 47 12:12:29
6 minutes, so I'll try to avoid that.

7 BY MR. BARR:

8 Q Same thing, Ms. Armistead, when I say
9 "transgender," what I'm referring to is someone whose
10 gender identity does not match the sex they were 12:12:41
11 assigned at birth.

12 Do you understand that?

13 MR. TRYON: Objection.

14 MS. HOLCOMB: Same objection.

15 THE WITNESS: I understand what you are 12:12:48
16 referring to.

17 BY MR. BARR:

18 Q So when I say the word "cisgender" or
19 "transgender" today, those are the definitions I am
20 using. 12:12:54

21 A Okay.

22 Q When I say "B.P.J.," I'm referring to the
23 plaintiff in this case.

24 Do you understand that?

25 A Yes. 12:13:06

Page 19

1 Q Did you prepare for this deposition?

2 A Yes.

3 Q How?

4 MS. HOLCOMB: And I'll just object to the
5 extent that it calls for any privileged attorney-client 12:13:23
6 communications, but, Lainey, you can answer.

7 THE WITNESS: I prepared with my attorneys.

8 BY MR. BARR:

9 Q Other than speaking with your attorneys, did
10 you do anything else to prepare for this deposition? 12:13:33

11 A No.

12 Q Did you review any documents?

13 A When I was speaking to my attorneys.

14 Q Okay. Which documents were those?

15 A Documents that have already been turned over 12:13:56
16 to the plaintiff, such as my declaration.

17 Q Other than your declaration, what documents
18 did you review?

19 A I reviewed documents that we turned over to
20 the plaintiff. 12:14:18

21 Q I understand. I'm asking which ones.

22 A I don't recall all the documents that we
23 reviewed or turned over to the plaintiff.

24 Q Well, let's just work on identifying some of
25 those. 12:14:34

Page 20

1 So you said the declaration. Beyond the
2 declaration, what did you review to prepare for this
3 deposition?

4 A I reviewed scholarship information. I
5 reviewed text messages with my mom and my declaration. 12:14:52

6 Q Is that it?

7 A I don't recall all of the documents that I
8 reviewed.

9 Q When did you review these?

10 A Within the last week. 12:15:10

11 Q But the only thing you remember looking at was
12 your declaration, some text messages and scholarship
13 information.

14 Did I understand that correctly?

15 A Yes. 12:15:26

16 Q Have you ever had your deposition taken
17 before?

18 A No.

19 Q Have you ever testified at trial?

20 A No. 12:15:41

21 Q Did you bring anything with you today?

22 A My laptop.

23 Q Are you referring to your laptop during this
24 deposition?

25 A What do you mean? 12:15:58

1 Q So explain to me why you brought your laptop
2 to the deposition.

3 A So I could be in the deposition via Zoom.

4 Q Is there anyone else in the room with you?

5 A Yes. 12:16:20

6 Q Who else is in the room?

7 A Christiana and Catie.

8 Q And by "Christiana" and "Catie," you're
9 referring to your attorneys?

10 A Yes. 12:16:39

11 Q Other than your laptop, did you bring anything
12 else with you today?

13 A I brought water, snacks, a book bag, a laptop
14 charger.

15 Q Any documents? 12:17:02

16 A No.

17 Q Have you ever been a party to a lawsuit?

18 A No.

19 Q Other than this case, have you ever intervened
20 in a lawsuit? 12:17:21

21 A No.

22 Q Did you know what an intervenor was prior to
23 this lawsuit?

24 A Kind of.

25 Q What is your understanding of an intervenor? 12:17:39

1 A My understanding is that it's someone who can
2 intervene for a certain side that they support and
3 hopefully maintain the bill or law and keep it in
4 place.

5 Q And was that your understanding before or 12:18:02
6 after you intervened in this case?

7 A After.

8 Q What was your understanding of an intervenor
9 before this case?

10 A It was a vague understanding that I had heard 12:18:16
11 from a TV show or something. It wasn't a clear
12 understanding.

13 Q So what was that vague understanding?

14 A Someone who supports a bill or law.

15 Q Why did you decide to intervene in this case? 12:18:40

16 A Because I care about women's sports and the
17 sport that I play, and I think that it's a good law.

18 Q How did you decide to actually intervene?

19 I understand you support the bill, but it
20 sounds like you didn't really understand what an 12:19:10
21 intervenor was prior to this lawsuit, so I'm trying to
22 understand how you actually intervened in this case.

23 MS. HOLCOMB: And I'll just object to the
24 extent it calls for any communications between Lainey
25 and myself. 12:19:23

1 THE WITNESS: I don't know how to answer that
2 question without divulging privileged information.

3 BY MR. BARR:

4 Q Let me ask it a different way.

5 Prior to discussing this case with the ADF, 12:19:32
6 were you interested in intervening?

7 And by "ADF," I mean your attorneys.

8 A No.

9 Q Was intervening an easy decision?

10 A No. 12:19:53

11 Q Why not?

12 A Because it's not always easy standing up for
13 what you believe when you know other people do not also
14 believe in that, and it's a public thing, and I was
15 nervous about it. 12:20:21

16 Q Did you talk with anyone about the decision
17 prior to making it?

18 MS. HOLCOMB: Same objection.

19 BY MR. BARR:

20 Q Other than your attorneys. 12:20:34

21 A Yes.

22 Q Who?

23 A My parents, my coach and my siblings.

24 Q Anyone else?

25 A I may have talked about it with my best friend 12:20:56

Page 24

1 before I chose to intervene.

2 Q Explain to me those discussions with your
3 parents.

4 A I asked them what they thought about the law
5 and how they -- if they thought that intervening would 12:21:28
6 be a good decision on my part, and they supported me.

7 Q Did you approach your parents about
8 intervening, or did your parents approach you about
9 intervening?

10 A I approached my parents. 12:21:48

11 Q And you said your parents supported your
12 decision; is that right?

13 A Yes.

14 Q Did they explain why they supported your
15 decision? 12:22:10

16 A Soccer is a huge deal in my family, and it's
17 something that I grew up with, and my dad grew up
18 coaching me and other female athletes and male
19 athletes, and he thinks that it was a good -- he thinks
20 that it's a good law because he's seeing the 12:22:34
21 differences, and he encouraged me.

22 Q What about your mom?

23 A My mom is supportive in all that I do.

24 Q There's nothing you have done your mom doesn't
25 support? 12:22:56

1 A She is supportive with everything that I do.

2 Q When did you reach out to your attorneys, ADF?

3 MS. HOLCOMB: Again, objection to the extent

4 it calls for communications, Lainey, between your

5 attorneys and you. 12:23:22

6 MR. BARR: I'm just asking about the initial

7 reach-out. There certainly wouldn't have been a

8 relationship between client and attorney at that point.

9 THE WITNESS: I don't recall the exact time

10 when I first got in contact with ADF. 12:23:34

11 BY MR. BARR:

12 Q Was it before or after the bill had been

13 passed?

14 A After.

15 Q So are -- are we thinking June timeframe of 12:23:48

16 last year?

17 A I don't recall an exact date.

18 Q Just give me a -- a timeframe. I'm trying to

19 understand the sequence of events.

20 A I would say it was sometime in 2021. 12:24:21

21 Q So you don't recall even time of year that you

22 had reached out to them?

23 A I don't remember the first conversation I had

24 with her, no.

25 Q And who is "her" in that sentence? 12:24:40

1 A My attorney, Christiana.

2 Q How did you find ADF when you decided you
3 wanted to intervene?

4 A My mom has a friend who works for ADF.

5 Q Who is that friend? 12:25:08

6 A Jamie Metzger.

7 Q Did your mom speak with Jamie about this case?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I can't comment on the
10 conversations that my mom has with other people. 12:25:25

11 BY MR. BARR:

12 Q I didn't ask for the substance. I'm just
13 asking if your mom reached out to her friend regarding
14 this case.

15 MS. HOLCOMB: Again, object to form. 12:25:40

16 THE WITNESS: I'm not sure if my mom reached
17 out to her or not.

18 BY MR. BARR:

19 Q So you spoke to your parents about
20 intervening, your mom happened to have a friend at ADF, 12:25:50
21 and that's how you got connected with ADF. Am I
22 understanding that correctly?

23 A No.

24 Q So what happened?

25 A I don't know how to answer that question 12:26:11

Page 27

1 without giving privileged information -- information
2 with my attorney and I.

3 Q I certainly don't want privileged information.

4 Would it be fair to say that the first time
5 you thought about intervening in this case was in 12:26:20
6 connection with the discussion with your attorneys?

7 A Yes.

8 Q And you don't recall when that was?

9 A It was sometime last year.

10 Q Was it your -- your mom's friend Jamie who 12:26:42
11 encouraged you to join as an intervenor?

12 A No.

13 Q Who encouraged you to join as an intervenor?

14 MR. TRYON: Objection.

15 THE WITNESS: I made the decision after 12:27:12
16 talking with my -- I made the decision after a lot of
17 thought, prayer and then communications with my
18 parents.

19 BY MR. BARR:

20 Q What's Jamie's last name? 12:27:33

21 A Metzger.

22 Q Do you know what Jamie Metzger does at ADF?

23 A I do not.

24 Q How does your mom know Jamie?

25 MS. HOLCOMB: Object to form. 12:27:51

1 THE WITNESS: My -- through my mom's adoption
2 agency.

3 BY MR. BARR:

4 Q Could you explain that with a little more
5 detail, please? 12:28:05

6 A I'm not sure exactly how they know each other,
7 but I do believe that it was from my mom's adoption
8 agency, and Jamie writes articles about adoption.

9 Q Help me understand. Your mom knows Jamie
10 because of articles that Jamie has written that pertain 12:28:37
11 to adoptions?

12 A I believe so.

13 Q What's the nature of these articles?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: It's about adoption. 12:28:55

16 BY MR. BARR:

17 Q But specifically, what is -- what -- is
18 Jamie -- what is Jamie saying in these articles about
19 adoption?

20 MS. HOLCOMB: Object to form. 12:29:08

21 THE WITNESS: I don't know. You'd have to
22 read them.

23 BY MR. BARR:

24 Q Have you read them?

25 A I might have read one of them. I don't really 12:29:17

Page 29

1 recall. It was a long time ago.

2 Q Would you consider your mom friends with Jamie
3 or just happens to read Jamie's articles?

4 A I'm not sure on their relationship. I can't
5 speculate on that. 12:29:47

6 Q What's your understanding?

7 A I believe Jamie has interviewed my mom for
8 adoption purposes.

9 Q Did Jamie reach out to your mom regarding this
10 case? 12:30:02

11 MS. HOLCOMB: Object to form.

12 MR. TRYON: Objection.

13 THE WITNESS: No.

14 BY MR. BARR:

15 Q So your mom reached out to Jamie; is that 12:30:12
16 right?

17 A No.

18 MS. HOLCOMB: Object to form.

19 BY MR. BARR:

20 Q So explain to me what happened. 12:30:21

21 A What happened with what?

22 Q Well, you -- you told me that you found ADF
23 because your mom was friends with Jamie. Did I get
24 that right?

25 A Yes. 12:30:43

1 Q You also told me that Jamie didn't reach out
2 to your mom and your mom didn't reach out to Jamie;
3 right?

4 A Regarding this case.

5 Q Well, that's -- that's what I'm trying to 12:30:59
6 understand.

7 How did you get connected with ADF for this
8 case?

9 A I don't know how to answer that question
10 without giving privileged information. 12:31:09

11 Q Okay. What did your siblings think about you
12 intervening in the case?

13 A They were supportive.

14 Q Explain to me those discussions you had with
15 them. 12:31:31

16 A I asked them what their opinion was on the
17 law, and they agreed with the substance of the law, and
18 they said that I would be brave to participate in the
19 case.

20 Q What do you think they meant when they said 12:31:54
21 you would be brave?

22 MS. HOLCOMB: Object to form.

23 THE WITNESS: I don't know -- I can't
24 speculate on what they were thinking.

25 BY MR. BARR: 12:32:07

1 Q You know what the word "brave" means; right?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: I have an understanding of the
4 word "brave."

5 BY MR. BARR: 12:32:24

6 Q So why would your siblings describe you as
7 brave for intervening in a lawsuit?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I don't know exactly what they
10 were thinking whenever they described me as brave. 12:32:39

11 BY MR. BARR:

12 Q What did your coach think when you talked
13 about intervening?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: I don't know what my coach was 12:32:49
16 thinking.

17 BY MR. BARR:

18 Q What did your coach say to you in response to
19 you telling your coach you might intervene in this
20 case? 12:32:57

21 A She told me that she would be supportive,
22 although she wasn't sure if she would want, herself, to
23 get involved with the case, but she was supportive of
24 my decision to get involved in the case.

25 Q Why didn't any of your teammates try to 12:33:20

Page 32

1 intervene with you?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: I don't know why they did not
4 decide to, but at least one of them was interested.

5 BY MR. BARR: 12:33:40

6 Q Who is that?

7 MS. HOLCOMB: And I will just object to the
8 extent that this calls for communication in
9 anticipation of litigation, but, Lainey, you may
10 answer. 12:33:50

11 THE WITNESS: Sinead.

12 BY MR. BARR:

13 Q Could you say that name again, please?

14 A Sinead.

15 Q How do you spell that? 12:33:58

16 A S-I-N-E-A-D.

17 Q What's Sinead's last name?

18 A Samarczuk.

19 Q That's going to take a minute, so bear with us
20 as we try to spell that one. 12:34:23

21 Go ahead, please.

22 A S-A-M-A-R-C-Z-U-K.

23 Q Do you mind if I just refer to your teammate
24 as "Sinead" because the last name I'm certainly going
25 to mess up? 12:34:46

Page 33

1 A That is fine.

2 Q Why did Sinead ultimately decide not to
3 intervene?

4 MS. HOLCOMB: Object to form and to the extent
5 it calls for privileged communications with counsel. 12:34:57

6 THE WITNESS: I don't know how to answer that
7 without divulging confidential information --
8 privileged information.

9 BY MR. BARR:

10 Q You said Sinead's on your team; right? 12:35:09

11 A Yes.

12 Q You never discussed this with Sinead?

13 A Discussed it when with Sinead?

14 Q Well, let's start at the beginning.

15 Tell me about the first discussion you had 12:35:36
16 with Sinead about intervening in this lawsuit.

17 A I asked her if she would want to intervene
18 with me.

19 Q You approached Sinead about interviewing. Did
20 I get that right? 12:35:59

21 A Yes.

22 Q How did you get the idea to approach Sinead?

23 MS. HOLCOMB: Again, objection, to the extent
24 it calls for privileged communications.

25 BY MR. BARR: 12:36:07

1 Q I'll rephrase.

2 Other than a discussion with your attorney,
3 why did you approach Sinead to intervene in this case?

4 A She and I are very close friends.

5 Q Did you approach anyone else on your team? 12:36:27

6 A Yes.

7 Q Who?

8 A Brooklyn.

9 Q What's Brooklyn's last name?

10 A Pritt. 12:36:43

11 Q Anyone else?

12 A No, I did not approach anyone else on my team
13 to intervene for this case.

14 Q Why didn't you ask your entire team, if this
15 is an important lawsuit to protect women's sports? 12:37:07

16 A I'm not as close with all of my teammates for
17 something that was such a big deal. They -- I'm
18 very -- I love my teammates, we are close, but this is
19 something that I was nervous about, intervening, and it
20 was a big decision to make, so I just wanted to see 12:37:33
21 what Brooklyn and Sinead thought about it.

22 Q Did you discuss that with Sinead and Brooklyn?

23 A Discuss what?

24 Q Did you invite them to intervene in the case?

25 A I asked them if they would be interested in 12:37:56

1 doing so.

2 Q And, presumably, they said no; right?

3 A By the time they had reached a decision, it
4 was too late for other people to intervene, is my
5 understanding. 12:38:17

6 Q Well, what decision did they reach?

7 A Both of them wanted to get involved in some
8 type of way, but it was too late for Sinead, and
9 Brooklyn is very, very busy with school and work and
10 other things, so she just didn't have the time. 12:38:49

11 Q I asked a -- a little bit of a different
12 question.

13 They ultimately both decided not to intervene;
14 right?

15 A That wasn't their decision. It was too late 12:38:57
16 for Sinead.

17 Q Had it not been too late, would Sinead have
18 joined?

19 A I believe so, but I can't answer that for
20 certain. 12:39:17

21 Q Is Sinead still a student at West Virginia
22 State University?

23 A She is currently in England.

24 Q Is she still a student at West Virginia State
25 University? 12:39:33

Page 36

1 A I believe she's still enrolled, yes.

2 Q Is she still on your team?

3 A I believe she's still on the team. She's just
4 taking a semester off, but -- she might return; she
5 might not. 12:39:48

6 Q Is Brooklyn still a student at West Virginia
7 State?

8 A Yes.

9 Q Is Brooklyn still on your team?

10 A Yes. 12:40:02

11 Q Are there any other of your teammates who you
12 believe might be -- let me rephrase that.

13 Are there any other of your teammates that you
14 believe would have intervened but for a timing issue?

15 A It's possible. 12:40:19

16 Q A lot of things are possible. I'm asking if
17 there's any specific names you have of someone you
18 believe you would like to have intervened.

19 A I can't speculate on what other people want.

20 Q So you have no reason to think that there's 12:40:42
21 another one of your teammates who would have liked to
22 intervene?

23 MR. TRYON: Objection.

24 THE WITNESS: Again, I can't speculate on what
25 other people want. 12:40:59

Page 37

1 BY MR. BARR:

2 Q I'm not asking you to speculate.

3 Do you have reason to believe that any of your
4 other teammates wanted to intervene in this case?

5 MS. HOLCOMB: Object to form. 12:41:06

6 MR. TRYON: Objection.

7 THE WITNESS: I don't know.

8 BY MR. BARR:

9 Q Can you provide me with the name of one of
10 your teammates, other than Sinead and Brooklyn, who 12:41:20
11 wanted to intervene in this case?

12 MR. TRYON: Objection.

13 MS. HOLCOMB: Object to form.

14 The witness: I don't know what my teammates
15 would have wanted to do. 12:41:37

16 BY MR. BARR:

17 Q Where are you from?

18 A Owensboro, Kentucky.

19 Q What's the closest big city to Owensboro, just
20 so I can understand geography? 12:42:02

21 A Louisville, Kentucky.

22 Q Did you grew up a Cardinals fan?

23 A No.

24 Q Does that make you a UK fan?

25 A Yes. 12:42:20

Page 38

1 Q How old are you?

2 A 21.

3 Q Did you grow up in the same house as your
4 parents?

5 A Yes. 12:42:43

6 Q You mentioned siblings. How many siblings do
7 you have?

8 A I have two biological brothers.

9 Q Only because of the way you phrased that, do
10 you have a sibling that you wouldn't consider 12:43:07
11 biological?

12 A I have two adopted siblings, but,
13 unfortunately, I am not in contact with them anymore.

14 Q How old are your -- are -- are your adopted
15 siblings also brothers? 12:43:26

16 A They are siblings, a brother and sister.

17 Q As you described it, your biological siblings,
18 what are their names?

19 A Kyler and Declan.

20 Q Did you say Kyler, with a K? 12:43:47

21 A Yes.

22 Q What does Kyler do?

23 A Kyler works at UPS.

24 Q And what about Declan?

25 A He is a student athlete in university. 12:44:02

Page 39

1 Q And where does Kyler live?

2 A Louisville, Kentucky.

3 Q And what school does Declan attend?

4 A Brescia University.

5 Q I'm sorry, what's it called? 12:44:23

6 A Brescia.

7 Q Where is that located?

8 A In Owensboro, Kentucky.

9 Q It's close to home.

10 What is your adopted brother's name? 12:44:39

11 A David.

12 Q What does David do?

13 A I'm not sure.

14 Q When is the last time you spoke with David?

15 A When I was 16. 12:44:52

16 Q Where does David live?

17 A I have no idea. I'm not sure.

18 Q What's your adopted sister's name?

19 A Gabby.

20 Q Are Gabby and David biological siblings? 12:45:19

21 A Yes.

22 Q When is the last time you spoke with Gabby?

23 A I'm not sure.

24 Q Was it around the last time you spoke to David

25 or some other time? 12:45:47

1 MS. HOLCOMB: Object to form.

2 THE WITNESS: I'm not sure. It was a long
3 time ago.

4 BY MR. BARR:

5 Q I take it you don't know where Gabby lives? 12:45:55

6 A No.

7 Q Are David and Gabby still in touch with your
8 parents?

9 A I'm not sure.

10 Q Are David and Gabby still in touch with Kyler? 12:46:14

11 MS. HOLCOMB: Object to form.

12 THE WITNESS: I'm not sure.

[REDACTED]

23 Q And Gabby went with him?

24 A No. She was older, so she was already out of
25 our house.

12:47:04

Page 41

1 Q Okay. What do you currently do?

2 A I am a student athlete.

3 MS. HOLCOMB: Just -- may I jump in here for a
4 moment, Andrew?

5 MR. BARR: Yes. 12:47:26

6 MS. HOLCOMB: Do you need a break?

7 I -- I understand you may be moving to a
8 different line of questioning.

9 Do you need a break? Okay.

10 Andrew, would you be amenable to -- 12:47:32

11 MR. BARR: No worries. We'll take a break.

12 How about we come back at 1:00? Does that
13 work for you?

14 MS. HOLCOMB: That works great. Thank you.

15 THE VIDEOGRAPHER: Okay. We are going off the 12:47:43

16 record -- sorry. We're going off the record. The time
17 is 12:48 p.m., and this is the end of Media Unit No. 1.

18 (Recess.)

19 THE VIDEOGRAPHER: All right. We are back on
20 the record at 1:00 p.m., and this is the beginning of 01:00:18
21 Media Unit No. 2.

22 Go ahead, please.

23 BY MR. BARR:

24 Q Ms. Armistead, you stated you were a student
25 at West Virginia State University; is that right? 01:00:26

Page 42

1 A Yes.

2 Q Are you employed anywhere?

3 A Yes.

4 Q Where do you work?

5 A I work as a work-study student, and I work at 01:00:37
6 Red Lobster.

7 Q What's a work-study student?

8 A I work in the Dean's office of my college.

9 Q And what do you do there?

10 A I answer the phone, run errands, talk to 01:00:56
11 professors.

12 Q Largely administrative tasks, am I
13 understanding that correctly?

14 A Yes.

15 Q And what do you do at Red Lobster? 01:01:17

16 A I'm a server.

17 Q Any other jobs at the moment?

18 A If you consider soccer a job, then sure.

19 Q Do you consider soccer a job?

20 A I love it, but I have to show up, and I'm 01:01:36
21 getting a scholarship for it, so...

22 Q Let's talk about soccer separately.

23 Other than Red Lobster and the Dean's office,
24 do you have any other jobs?

25 A No. 01:01:50

1 Q Where is West Virginia State University?

2 A Like, the address?

3 Q The city.

4 A Dunbar.

5 Q If I call it "West Virginia State," will that 01:02:10
6 be okay with you?

7 A Yes.

8 Q Did you grow up rooting for West Virginia
9 State?

10 A No. 01:02:26

11 Q You mentioned UK earlier. Was that your team
12 growing up?

13 A Sure.

14 Q You tell me. I'm just asking.

15 A I like it. I wouldn't say I necessarily had a 01:02:39
16 team growing up.

17 Q What conference is West Virginia State in?

18 A The Mountain East Conference.

19 Q How many teams are in that conference?

20 A I'm not sure. 01:02:57

21 Q Is it closer to ten or closer to 20?

22 A Closer to ten.

23 Q Are those schools all located within
24 West Virginia?

25 A I don't think so, but I'm not sure where 01:03:20

1 they're all located.

2 Q Are you aware that the NCAA has divisions?

3 A Yes.

4 Q What division is West Virginia State in for

5 girls' soccer? 01:03:36

6 A Division II.

7 Q How many NCAA divisions are there?

8 A Three.

9 Q What is your understanding of the difference
10 between Division I, II and III? 01:03:54

11 A I believe it's based off of school size and
12 the ability for D-I and D-II to give athletic aid and
13 scholarship.

14 Q Is one division generally thought to be more
15 competitive than another? 01:04:16

16 A Division I is usually thought to be more
17 competitive, but I think all three are very
18 competitive. We're college athletes.

19 Q Do you think Division I is more competitive?

20 A I think -- 01:04:34

21 MR. TRYON: Objection.

22 THE WITNESS: I think that we're all very
23 competitive.

24 BY MR. BARR:

25 Q I don't take issue with that. I'm -- I'm sure 01:04:56

1 you're right there. I'm just asking if you believe
2 Division I is more competitive than Division II.

3 MS. HOLCOMB: Object to form.

4 MR. TRYON: Objection.

5 THE WITNESS: What do you mean by 01:05:13
6 "competitive"?

7 BY MR. BARR:

8 Q As a general matter, if a Division I women's
9 soccer team played a Division II women's soccer team,
10 who would you expect to win? 01:05:16

11 MS. HOLCOMB: Objection.

12 THE WITNESS: Generally, we would expect the
13 Division I team to win.

14 BY MR. BARR:

15 Q How big is West Virginia State, in terms of 01:05:33
16 student size?

17 A Couldn't tell you.

18 Q How did you pick West Virginia State?

19 A There were a myriad of reasons.

20 Q What -- what was the primary reason? 01:05:51

21 A Because of the opportunity that West Virginia
22 State gave me.

23 Q What opportunity is that?

24 A To play soccer -- to play soccer and have a
25 very good scholarship. 01:06:15

Page 46

1 Q Did you consider going to any other colleges?

2 A Yes.

3 Q How many?

4 A How many did I visit or consider? What do you

5 mean? 01:06:43

6 Q Let's start with, how many other colleges did
7 you consider attending?

8 A I'm not sure.

9 Q Less than 20?

10 A Less than 20. 01:06:57

11 Q Less than ten?

12 A Seriously considered, yes, less than ten.

13 Q Less than five?

14 A Probably about five.

15 Q What -- what were the five colleges you 01:07:14

16 seriously considered attending?

17 MS. HOLCOMB: Object to form.

18 MR. TRYON: I also object.

19 THE WITNESS: I didn't say that it was

20 definitely five. 01:07:34

21 BY MR. BARR:

22 Q I'll rephrase. I'm not trying to put words in
23 your mouth.

24 Tell me the colleges you seriously considered

25 attending. 01:07:41

Page 47

1 A West Virginia State, Austin Peay,
2 Transylvania, Kentucky Wesleyan. And that's all of the
3 ones that I seriously considered.

4 Q Other than West Virginia State, did you have
5 an opportunity to play soccer at those schools? 01:08:17

6 A Yes.

7 Q Which ones?

8 A Kentucky Wesleyan and Transylvania.

9 Q Did Kentucky Wesleyan offer you a scholarship?

10 A For what? 01:08:47

11 Q For soccer.

12 A I had communications with their coach, but
13 there was nothing official for an athletic scholarship.

14 Q To make sure I'm clear, there was no official
15 offer of an athletic scholarship at Kentucky Wesleyan? 01:09:11

16 A I don't believe so.

17 Q Same question for Transylvania, were you
18 offered an athletic scholarship for Transylvania?

19 A Transylvania is a D-III school, so they can't
20 give athletic scholarship. 01:09:32

21 Q Were you offered an athletic scholarship for
22 any school other than West Virginia State?

23 A Yes.

24 Q What school is that?

25 A Brescia University. 01:09:46

1 Q I'm sorry, you cut out. Could you repeat
2 that?

3 A Brescia.

4 Q Is that the same school that your brother goes
5 to? 01:09:59

6 A Indeed.

7 Q But you weren't seriously considering
8 attending that school, were you?

9 A No.

10 Q Any other schools offer you an athletic 01:10:14
11 scholarship?

12 A Many schools e-mailed me saying that they
13 would give me scholarships, but I never really
14 conversed with any others ones, no.

15 Q So no formal offers for athletic scholarships 01:10:33
16 other than the two we just discussed?

17 A No formal offers, correct.

18 Q Is Kentucky Wesleyan a Division I or
19 Division II school?

20 A Division II. 01:10:52

21 Q What do you study at West Virginia State?

22 A Political science.

23 Q Anything else?

24 A What do you mean?

25 Q Let me ask it a different way. What's your 01:11:20

Page 49

1 major, currently?

2 A Political science.

3 Q Do you have a minor?

4 A I am on track to get a minor in psychology.

5 Q What year are you, in terms of freshman, 01:11:48
6 sophomore, etcetera?

7 A I -- this will be my third year of college.

8 Q And when you say "this," as we sit here today,
9 in March, you're a junior, or you are saying the
10 upcoming school year that starts in August, you'll be a 01:12:06
11 junior?

12 A What do you mean?

13 Q I'm trying to understand if you've been
14 attending West Virginia State for four semesters or
15 6 semesters. 01:12:22

16 A I have attended it for six semesters, I think.
17 Since fall of 2019, and I have continuously studied at
18 West Virginia State.

19 Q Thank you. That's helpful. And that answers
20 the question. 01:12:44

21 Are you on track to graduate at the end of
22 next school year?

23 A I am not sure of my exact graduation plans
24 yet.

25 Q What do you mean by that? 01:12:57

1 A I mean that I could graduate this May,
2 tentatively, but I definitely want to utilize my NCAA
3 eligibility and possibly continue playing and studying
4 at West Virginia State.

5 Q I think I read you have two years of 01:13:25
6 eligibility left; is that right?

7 A If I graduate in May, I'll actually have three
8 years of eligibility left.

9	Q	If you graduate in May, do you plan on using	
10		that eligibility either at West Virginia State or some	01:13:43
11		other institution?	

12	A I would love to.
----	--------------------

13	Q Do you have any current plans to do that?
----	---

14	A	My plans aren't set in stone yet. I had	
15		health concerns this past semester. So as long as I	01:14:01
16		can figure that out and my body allows it, I would	
17		definitely want to continue playing soccer.	

18 Q I certainly don't want to get into your health
19 concerns at all. I am curious if they impact your
20 ability to play soccer. 01:14:20

21	A	They --
----	---	---------

22 MR. TRYON: Objection.

23 THE WITNESS: They don't actually affect my
24 abilities to play.

25	///
----	-----

1 BY MR. BARR:

2 Q So help me understand how that impacts your
3 decision on graduation.

4 A Because I have to decide if I want to take
5 medicine that would impair me to play, but as it 01:15:01
6 currently is, I can play.

7 Q So I'm not a doctor, I don't understand how
8 any of that works, but what I hear you saying is if you
9 do whatever the doctors are saying is an option, you'd
10 have to stop playing soccer; is that right? 01:15:22

11 MR. TRYON: Objection.

12 MS. HOLCOMB: Object to form.

13 THE WITNESS: I'm not my doctor either. I
14 just know the options, and I'm weighing them carefully
15 to decide what my next step will be, and I'm not sure 01:15:35
16 yet, but I would love to stay in West Virginia and play
17 soccer. And I am still currently on the team, so...

18 BY MR. BARR:

19 Q Were you in with the roster for -- the season
20 is over right now; right? 01:15:54

21 A We are in a spring semester, but yes, it is a
22 fall sport.

23 Q So, currently, there's no practices or games;
24 right?

25 A We are in the spring semester, so there is 01:16:07

Page 52

1 practices, it's just not for our season.

2 Q I don't -- I don't understand. What do you
3 mean?

4 A So, typically, in collegiate sports, you have
5 a season, and right now, we're in our offseason, but we 01:16:28
6 are still allowed to practice and play scrimmage games,
7 according to NCAA rules.

8 Q And those are official practices and official
9 scrimmages?

10 A With our coach in West Virginia, yes, 01:16:43
11 West Virginia State.

12 Q Are you still participating in those practices
13 and scrimmages?

14 A Yes.

15 Q As we sit here today, do you expect to be on 01:16:52
16 the team next fall?

17 A I would love to be.

18 Q Slightly different question.

19 Do you expect to be?

20 A I am not sure what the future holds yet 01:17:12
21 because of the health concerns, and I have to carefully
22 see and weigh the options.

23 Q I understand that.

24 When do you think you'll have to make that
25 decision? I assume your coach is interested. 01:17:37

Page 53

1 A She hasn't given me a specific time to make
2 the decision yet.

3 Q Do you have an expectation of when that
4 timeframe will be?

5 A I don't make the rules. 01:17:54

6 Q Just asking if you have an expectation of when
7 that timeframe will be, if you need to decide if you're
8 going to play or not.

9 MS. HOLCOMB: Objection.

10 THE WITNESS: I don't have an expectation. 01:18:10

11 BY MR. BARR:

12 Q When is scholarship awarded for next school
13 year?

14 A For whom?

15 Q For you. 01:18:27

16 A Typically, we re-sign the paper in the spring,
17 stating our scholarship, but my coach can decide when
18 to allow us to sign the papers. Some people sign in
19 June, July, August. It's up to our coach.

20 Q When did you sign last year? 01:19:04

21 A Sometime in the spring.

22 Q February?

23 A I think that's winter.

24 Q Okay. When -- what month did you sign your
25 scholarship award last year? 01:19:33

Page 54

1 A I'm not sure.

2 Q Where would we have to go to find that date
3 out?

4 A I don't know. I don't have any papers on it.

5 Q It sounds like you signed a paper, and I'm 01:19:44
6 just trying to figure out when.

7 MS. HOLCOMB: Object to form.

8 THE WITNESS: I'm not sure of the exact date.
9 It was sometime in 2021.

10 BY MR. BARR: 01:19:59

11 Q So what is the spring to you, if it doesn't
12 include February?

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: Maybe March through June.

15 BY MR. BARR: 01:20:17

16 Q So as you sit here today, you believe that you
17 would have signed your scholarship award package
18 sometime between March and June of last year; is that
19 right?

20 A Yes. 01:20:28

21 Q Do you expect that that same timeframe would
22 apply to this year?

23 A I don't know.

24 Q Do you have any reason to think it won't?

25 MR. TRYON: Objection. 01:20:55

1 THE WITNESS: My coach is very patient. And
2 seeing as I'm a captain and a starter, I'm sure that
3 she would give me as much time as she could to keep me
4 on the team.

5 BY MR. BARR: 01:21:08

6 Q What is your coach's name?

7 A Lisa Mann.

8 Q How do you spell your coach's last name?

9 A M-A-N-N.

10 Q Have you had discussions with Coach Mann about 01:21:22
11 the possibility of you not playing next year?

12 A Yes.

13 Q Explain -- when was the first conversation you
14 had with Coach Mann regarding the possibility you don't
15 play next year? 01:21:38

16 A Sometime in February.

17 Q How many discussions have you had with
18 Coach Mann regarding the possibility you don't play
19 next year?

20 A I'm not sure. 01:21:56

21 Q More than five?

22 A I'm not sure.

23 Q More than ten?

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: I don't know. 01:22:17

1 BY MR. BARR:

2 Q More than 20?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I don't recall saying it was

5 more than ten either. 01:22:24

6 BY MR. BARR:

7 Q It sounds like you're not sure. I'm just

8 trying to get a range here.

9 A More than one, less than 20, probably.

10 Q And that's the closest estimate you can give 01:22:37

11 on the number of discussions you've had with Coach Mann

12 about this?

13 A Yes.

14 MR. TRYON: Objection.

15 BY MR. BARR: 01:22:50

16 Q What -- what was Coach Mann's response?

17 A She wants me to do what's best for me.

18 Q Did she say anything else?

19 A She would love for me to stay on the team.

20 Q Did she also say that she would like to use 01:23:07

21 that scholarship award for a different player if you're

22 not going to come back?

23 A She did not tell me that.

24 Q What else did she say?

25 A To keep her updated. 01:23:25

Page 57

1 Q Have you kept her updated?

2 A As much as I possibly can, because I'm not
3 sure what my future holds yet.

4 Q So what did you tell her in your first update?

5 A I don't recall what I told her on the first 01:23:47
6 update.

7 Q So you've updated your coach at least once,
8 but you have no recollection of what you told
9 Coach Mann?

10 A I didn't say that. You asked what I said on 01:24:07
11 my first update. I'm not sure. There's been a couple
12 conversations, more than one, like I said.

13 Q Okay. If we take all the update meetings
14 together, what have -- what have you conveyed to
15 Coach Mann? 01:24:23

16 A I've conveyed that I am still wanting to
17 practice and be a part of the team, and I'm not sure
18 what my plans are for the fall.

19 Q At no point Coach Mann said, hey, it would be
20 really nice to know by X date? 01:24:46

21 A She would like to know, but she's never given
22 me an exact date, no.

23 Q Did she give you a timeframe?

24 A No.

25 Q If you graduate in May, can you still play on 01:24:57

1 the team?

2 A Yes.

3 Q How?

4 A Because I am interested in possibly getting a
5 Master's degree at West Virginia State, and I still 01:25:20
6 have three years of NCAA eligibility, which would mean
7 I can continue playing in the fall.

8 Q So you would play as a graduate student; is
9 that right?

10 A That is what I'm saying. 01:25:36

11 Q What Master's are you interested in pursuing?

12 A Master's of Public Administration.

13 Q When's the application due for that?

14 A I'm not sure. I'd have to ask the professor.

15 Q Have you looked into it? 01:25:56

16 A I see the chair of the department or of the
17 Master's of Public Administration a couple times a
18 week, and yes, we have discussed it.

19 Q How long of a program is that?

20 A It depends on the -- how many hours you take, 01:26:15
21 but I would expect a year and a half.

22 Q Why are you interested in getting a Master's
23 of Public Administration?

24 A It would mean continuing my academic career
25 and athletic career, which are both things that I love. 01:26:48

1 Q Did I read somewhere you want to be a lawyer?

2 A Yes.

3 Q Does West Virginia State have a law school?

4 A No.

5 Q Have you considered, upon graduation, going to 01:27:07
6 law school?

7 A Yes.

8 Q Did you take the LSAT?

9 A Yes.

10 Q Have you applied to law school? 01:27:17

11 A Yes.

12 Q Where did you apply?

13 A I applied to University of Florida, FSU and
14 ASU.

15 Q Warm states. Totally understand. 01:27:41
16 Any other schools?

17 A I don't think I've sent in my official
18 applications to any other schools, no.

19 Q What other schools are you planning to send an
20 official application to? 01:27:59

21 A Possibly the University of Houston.

22 Q Any others?

23 A I haven't really considered it because I'm not
24 sure if I'm even going to be going to law school in the
25 fall. 01:28:15

Page 60

1 Q You've applied to three programs; is that
2 right? FSU, UF and ASU?

3 A Yes.

4 Q Have you been admitted?

5 A I haven't gotten any decisions. 01:28:28

6 Q When do you expect to hear back?

7 A Hopefully soon.

8 Q If you get in, will you go?

9 A I don't know, because I would still love to
10 continue playing soccer. I'm not ready to give it up 01:28:56
11 yet.

12 Q Is there any reason you can't play soccer at
13 FSU or UF or ASU?

14 A I'm not sure if I would be able to play soccer
15 and do law school. 01:29:13

16 Q So it's not an eligibility concern; it's just
17 a timing concern?

18 A Yes.

19 Q Do you think you'd make the team at FSU?

20 MS. HOLCOMB: Object to form. 01:29:29

21 MR. TRYON: Objection.

22 THE WITNESS: I would hope so. That would be
23 cool.

24 BY MR. BARR:

25 Q Am I mistaken? Didn't Florida State win the 01:29:42

1 national championship a couple of years ago for women's
2 soccer?

3 A They could have. I don't keep up with FSU
4 sports.

5 Q Do you expect you'd make the team at 01:29:54
6 University of Florida?

7 MS. HOLCOMB: Object to form.

8 MR. TRYON: Objection.

9 THE WITNESS: I don't know.

10 BY MR. BARR: 01:30:09

11 Q I presume you don't know if you would make the
12 team at Arizona State either?

13 MS. HOLCOMB: Same objection.

14 THE WITNESS: I don't make the decisions for
15 those coaches. 01:30:20

16 BY MR. BARR:

17 Q If you get into law school, are you going to
18 try out for the team, or that's the end of soccer?

19 MR. TRYON: Objection.

20 MS. HOLCOMB: Object to form. 01:30:28

21 THE WITNESS: I don't know. I definitely
22 don't think that I said if I get into law school, I'm
23 definitely -- it's definitely the end of law school --
24 or soccer, I mean.

25 ///

1 BY MR. BARR:

2 Q Have you reached out to the coaches at any of
3 those programs?

4 A No. That would be illegal to do because I'm
5 not in the transfer portal. 01:30:54

6 Q You're not transferring; you're graduating;
7 right?

8 A I still --

9 MS. HOLCOMB: Object to the form.

10 MR. BARR: I'm sorry, could you repeat that? 01:31:04
11 That got --

12 MS. HOLCOMB: I would like to put my objection
13 back on the record, please.

14 You can go.

15 THE WITNESS: I still can't reach out to those 01:31:12
16 schools.

17 BY MR. BARR:

18 Q When are you able to reach out to those
19 schools?

20 A I haven't looked into that because I really 01:31:17
21 love playing at West Virginia State University.

22 Q But if I understand you correctly, there's a
23 possibility you end up in law school, come the fall;
24 right?

25 MS. HOLCOMB: Object to form. 01:31:41

Page 63

1 MR. TRYON: Objection.

2 THE WITNESS: As you said earlier, a lot of
3 things are possible.

4 BY MR. BARR:

5 Q Well, you've applied to three of them, and 01:31:52
6 you're waiting to hear back; right?

7 MR. TRYON: Objection.

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I want to play soccer at
10 West Virginia State. 01:32:05

11 BY MR. BARR:

12 Q But you couldn't do that if you were in law
13 school; right?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: I could not do that if I was in 01:32:13
16 law school, correct.

17 BY MR. BARR:

18 Q Is the only interest you have in the Master's
19 of Public Administration to play soccer?

20 A That's not the only reason. 01:32:32

21 Q What other reasons are there?

22 A I would be learning and getting a better
23 education while I was playing soccer and cultivating
24 relationships and learning important school skills.

25 Q Why do you think you could play soccer in the 01:33:07

Page 64

1 Master's program, but not during a law school program?

2 A I don't know if a Master's program is as
3 vigorous as law school will be.

4 Q When do you intend to apply for the Master's
5 program? 01:33:30

6 MS. HOLCOMB: Object to form.

7 THE WITNESS: As I said earlier, I still don't
8 know what I'm going to be doing yet.

9 BY MR. BARR:

10 Q Would you say it's more likely than not that 01:33:42
11 you graduate this May?

12 MR. TRYON: Objection.

13 THE WITNESS: I'm not sure.

14 BY MR. BARR:

15 Q What's your expectation, sitting here today? 01:33:54

16 MS. HOLCOMB: Object to form.

17 THE WITNESS: It's really not set in stone
18 yet.

19 BY MR. BARR:

20 Q I'm not asking if it's set in stone. I'm just 01:34:09
21 saying today, March 11th, are you expecting to graduate
22 in May?

23 MS. HOLCOMB: Object to form.

24 MR. TRYON: Objection.

25 THE WITNESS: It's possible. 01:34:24

1 BY MR. BARR:

2 Q Ms. Armistead, do you plan on graduating in
3 May? It's two months away. It's a fairly
4 straightforward question.

5 MS. HOLCOMB: Andrew, I don't mean to provide 01:34:38
6 a speaking objection, but I do think this is getting a
7 little bit excessive and harassing. That has been
8 asked and answered. I suggest that you move on.

9 MR. BARR: Attorney Holcomb, I'm asking a very
10 simple question that hasn't been answered. I'm just 01:34:50
11 asking what her expectation is for two months from
12 today, that's it.

13 MS. HOLCOMB: And she has told you multiple
14 times that she does not yet know. That is asked and
15 answered. Please proceed. 01:35:01

16 MR. BARR: Well, the question stands.

17 THE WITNESS: I am not sure, but if I do, I
18 would still like to continue my education at
19 West Virginia State.

20 BY MR. BARR: 01:35:21

21 Q When do you expect that you'll know if you're
22 going to graduate in May?

23 MS. HOLCOMB: Object to form.

24 THE WITNESS: I don't know. Hopefully before
25 May. 01:35:43

1 BY MR. BARR:

2 Q Has Coach Mann talked to you about graduation?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: What do you mean?

5 BY MR. BARR: 01:36:03

6 Q When -- in one or more of those updates you've
7 had with Coach Mann, have you talked about graduation
8 with her?

9 A I think, yes.

10 Q What did Coach Mann say? 01:36:31

11 A She wants me to get my Master's degree at
12 State, if I chose to graduate this May, or she would
13 want me to not graduate and just get two Bachelor's
14 degrees so I could continue on in the fall without
15 graduating. 01:36:58

16 Q What other Bachelor degree are you
17 considering?

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: It's not -- I'm not certain. I
20 would be interested in psychology. 01:37:13

21 BY MR. BARR:

22 Q Did you file a form to graduate in May?

23 A Yes.

24 Q When did you file that form?

25 A Sometime before the due date. 01:37:28

Page 67

1 MR. BARR: Attorney Holcomb, can you produce
2 that because that's certainly relevant to your
3 discovery request?

4 MS. HOLCOMB: We can certainly see if we can
5 obtain that. 01:37:52

6 MR. BARR: Thank you.

7 While we're at it, if you could obtain the
8 scholarship agreements that happened in the last two
9 years and their date of signature, that would also
10 clearly fall within our discovery request. 01:38:02

11 MS. HOLCOMB: Yeah, we don't have access to
12 those, Lainey does not have them in her possession, but
13 we can see if we can obtain them.

14 MR. BARR: Thank you.

15 BY MR. BARR: 01:38:11

16 Q Do you have any plans to withdraw the form
17 you've already filed to graduate in two months?

18 A Filing the form doesn't automatically mean
19 that I graduate.

20 Q I'm just asking if you have any plans to 01:38:27
21 withdraw the form.

22 A I don't know what my plans are yet.

23 Q But sitting here today, you have no plans to
24 do that?

25 MS. HOLCOMB: Object to form. 01:38:35

1 THE WITNESS: Sitting here today, I am not
2 sure what my future holds yet.

3 BY MR. BARR:

4 Q I understand that. But your future for the
5 two -- next two months, do you plan on withdrawing that 01:38:48
6 form?

7 MS. HOLCOMB: Objection to form.

8 MR. TRYON: Objection.

9 THE WITNESS: I'm not sure.

10 BY MR. BARR: 01:39:07

11 Q Have you talked to your parents about
12 graduating?

13 A Yes.

14 Q Explain to me those discussions.

15 A We have talked about all of the different 01:39:19
16 options that I have, one being which I could graduate,
17 another where I continue without graduating and get
18 another Bachelor's degree, another where I get a
19 Master's degree at State or go to law school.

20 But as I said earlier, there are a lot of 01:39:48
21 options that I have to weigh carefully, but I would
22 definitely love to be at West Virginia State.

23 Q What would your dad like you to do?

24 A What?

25 MS. HOLCOMB: I'm sorry, could you please 01:40:03

1 restate the question?

2 MR. BARR: Yes, absolutely.

3 BY MR. BARR:

4 Q In having those discussions you just
5 described, what is your understanding of what your dad 01:40:09
6 would like you to do?

7 A He wants me to decide for myself, and he said
8 that he would support my decision.

9 Q He has no preference?

10 MS. HOLCOMB: Object to form. 01:40:28

11 THE WITNESS: I don't know what my dad's
12 preference is.

13 BY MR. BARR:

14 Q So you've had these discussions with your
15 parents and your dad just stated whatever you decide is 01:40:39
16 fine with him?

17 MR. TRYON: Objection.

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: He wants me to do what I deem
20 best for myself. I'm the one who is going to be 01:40:54
21 graduating or staying or playing soccer. So,
22 ultimately, both of my parents want me to decide to do
23 what's best for me.

24 Would he love to continue seeing me play
25 because I've been playing since I was little? I'm -- I 01:41:13

Page 70

1 would assume he would.

2 BY MR. BARR:

3 Q Does your mom have a preference for what you
4 do?

5 MS. HOLCOMB: Object to form. 01:41:23

6 THE WITNESS: She said that she would be
7 supportive.

8 BY MR. BARR:

9 Q I understand that. And I'm sure your parents
10 would be supportive. I'm just curious if your mom has 01:41:36
11 a preference for what decision you make for yourself.

12 MS. HOLCOMB: Object to form.

13 MR. TRYON: Objection.

14 THE WITNESS: I know she likes watching me
15 play soccer, but I can't answer on what she wants me to 01:41:52
16 do.

17 BY MR. BARR:

18 Q So you've had the discussions about graduating
19 with your parents, and as far as you can tell, they're
20 okay with whatever you choose? 01:42:02

21 MR. TRYON: Objection. Come on.

22 MS. HOLCOMB: Objection.

23 THE WITNESS: They'll be supportive, I
24 believe.

25 ///

1 BY MR. BARR:

2 Q Do your parents want you to go to law school?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I'm not sure exactly what they

5 want me to do with my life. 01:42:35

6 BY MR. BARR:

7 Q Have you talked to them about the Master's of

8 Public Administration?

9 A Yes.

10 Q What did they say about that? 01:42:47

11 A They told me that they would be supportive of

12 whatever I did. I believe my mom would like me to get

13 my MPA.

14 Q Do you believe your dad wants you to get your

15 MPA? 01:43:17

16 MS. HOLCOMB: Object to form.

17 MR. TRYON: Objection.

18 THE WITNESS: I don't know. My parents would

19 want me to do whatever I see fit.

20 BY MR. BARR: 01:43:30

21 Q But sitting here today, you're just not sure

22 what that is?

23 MS. HOLCOMB: Object to form.

24 MR. TRYON: Objection again.

25 THE WITNESS: I don't think that's what I 01:43:48

Page 72

1 said.

2 BY MR. BARR:

3 Q What did you say?

4 A They want me to do what I think is best for my
5 future. 01:43:56

6 Q Maybe my question wasn't clear, I'm sorry.

7 My question was, sitting here today, you don't
8 know what you think is best for your future?

9 MS. HOLCOMB: Object to form.

10 THE WITNESS: I know what I would love to do, 01:44:12
11 and that's to continue playing the sport that I love.

12 BY MR. BARR:

13 Q But it's uncertain whether that will happen or
14 not?

15 MS. HOLCOMB: Object to form. 01:44:23

16 MR. TRYON: I'm sorry, Mr. Barr, could you
17 repeat that? I couldn't hear it.

18 MR. BARR: Yes, I said, and it's uncertain
19 whether that will happen?

20 MS. HOLCOMB: Object to form. 01:44:34

21 THE WITNESS: I don't know yet.

22 BY MR. BARR:

23 Q Do you know who B.P.J. is?

24 A I know that that's the plaintiff.

25 Q What do you know about B.P.J.? 01:44:53

Page 73

1 A There's nothing that I know for certain about
2 B.P.J. other than she's the plaintiff.

3 Q What do you mean there's nothing you know for
4 certain?

5 A You asked me what I knew about her. I don't 01:45:16
6 know who that is. I don't know who -- I know that
7 P.B. -- B.P.J. is the plaintiff.

8 Q You've never met or spoke with B.P.J. before?

9 A No.

10 Q Are you aware that B.P.J. is 11 years old? 01:45:32

11 A I don't know.

12 Q Are you aware that B.P.J. ran cross-country on
13 her middle school's girls' cross-country team last
14 year?

15 A I don't know. 01:45:51

16 Q You don't know that?

17 A (No response.)

18 Q I'm sorry, that was a question.

19 You -- you're not -- you're not aware that
20 B.P.J. ran on her middle school's girls' cross-country 01:46:02
21 team last fall?

22 A I don't know.

23 Q You don't know, or you're not aware of that?

24 MS. HOLCOMB: Objection.

25 THE WITNESS: I don't know. 01:46:28

1 BY MR. BARR:

2 Q Are you aware that B.P.J.'s middle school
3 supports her inclusion on the girls' team?

4 A I don't know.

5 Q Are you aware that B.P.J.'s school has a 01:46:54
6 transgender support plan for B.P.J.?

7 A I don't know.

8 Q Do you know anything about B.P.J.'s athletic
9 interests?

10 MS. HOLCOMB: Object to form. 01:47:31

11 THE WITNESS: I don't know.

12 BY MR. BARR:

13 Q Sitting here today, do you know anything about
14 B.P.J. at all other than the fact --

15 MS. HOLCOMB: Object to form. 01:47:47

16 BY MR. BARR:

17 Q -- that B.P.J. is the plaintiff?

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: I believe that B.P.J. doesn't
20 like the law from West Virginia. 01:47:59

21 BY MR. BARR:

22 Q What law is that?

23 A H.B. -- sorry, the numbers, I forget -- 3293.

24 Q You -- I get distracted with the numbers all
25 the time, so don't worry about that. 01:48:24

Page 75

1 So other than your understanding that

2 B.P.J. doesn't like H.B. 3293, do you know anything
3 else about B.P.J.?

4 A No.

5 Q Would you be surprised to learn that B.P.J.'s 01:48:48
6 school didn't have to cut any girls when they allowed
7 B.P.J. to play on the girls' team last year?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I don't know.

10 BY MR. BARR: 01:49:10

11 Q What is your understanding of how
12 B.P.J. placed in the cross-country events that she
13 participated in last year?

14 A I don't know.

15 Q Do you have any understanding at all? First? 01:49:26
16 Last? Middle of the pack?

17 A I don't know.

18 Q Do you know how many events B.P.J.
19 participated in last year for cross-country?

20 A No. 01:49:51

21 Q Did you run cross-country growing up?

22 A No. I would run races, but it wasn't
23 organized cross-country.

24 Q What kind of races?

25 A Just in elementary school, we would have races 01:50:13

Page 76

1 once a year.

2 Q Explain -- explain that to me. Some sort
3 of -- everybody in the school goes down to the field
4 and runs a distance, something like that?

5 A Something like that, divided by grade and 01:50:35
6 gender.

7 Q Did you win?

8 A Yes.

9 Q Every time?

10 A Yes. 01:50:55

11 Q Were you first for everyone in your grade?

12 A For all the girls, yes.

13 Q What years is this?

14 A Kindergarten through fifth grade.

15 Q Have you been a part of any other organized or 01:51:13
16 semiorganized running events, other than that?

17 A No.

18 MR. BARR: Let's go off the record.

19 THE VIDEOGRAPHER: All right. I was on mute.

20 Okay. We're going off the record. The time 01:51:37
21 is 1:52 p.m., and this is the end of Media Unit
22 Number 2.

23 One moment.

24 (Recess.)

25 THE VIDEOGRAPHER: Okay. We are back on the 02:06:12

Page 77

1 record at 2:06 p.m., and this is the beginning of Media
2 Unit No. 3.

3 Go ahead, please.

4 MR. BARR: Ms. Armistead, I just introduced to
5 you and your counsel what has been previously marked as 02:06:24
6 West Virginia Exhibit 34. Let me know you've got that
7 in front of you.

8 THE WITNESS: I have it in front of me.

9 BY MR. BARR:

10 Q Do you recognize this document? 02:06:34

11 A It looks like H.B. 3293.

12 Q Have you read this before?

13 A Sorry?

14 Q Have you read what is now Exhibit WV-34 prior
15 to seeing it now? 02:07:02

16 A I have read a little bit of it before, but not
17 the whole thing.

18 Q What part of it did you read before?

19 A The -- article 2, paragraph 1 and 2.

20 Q Did you read anything else? 02:07:29

21 A Not a full read, no.

22 Q So prior to today, article 2, section 1 and 2,
23 you've -- you've read, but everything else -- this will
24 be -- I'm just trying to gauge timing -- it will be new
25 for you? 02:07:56

Page 78

1 A Yeah.

2 Q What is your understanding of the impact of
3 H.B. 3293?

4 A My understanding is that it will keep
5 biological women competing with biological women in 02:08:10
6 sports.

7 Q Where did you get that understanding?

8 MS. HOLCOMB: I'll just object to the extent
9 it calls for any communications with counsel, but
10 Lainey, you may answer. 02:08:28

11 THE WITNESS: Through conversations with my
12 attorney.

13 BY MR. BARR:

14 Q Other than in discussions with your attorney,
15 do you have any other reason to think that's what 02:08:42
16 H.B. 3293 does?

17 A I had heard that that's what they did too.

18 Q Who did you hear that from?

19 A I don't remember exactly.

20 Q Do you remember when you had that 02:09:25
21 conversation?

22 MS. HOLCOMB: Object to form.

23 THE WITNESS: I don't know how to answer that
24 question without giving privileged information.

25 ///

1 BY MR. BARR:

2 Q Let me ask it a different way.

3 Is your entire understanding of the impact of
4 H.B. 3293 based on discussions with your attorney?

5 A Yes. 02:09:43

6 Q Under this law, can B.P.J. play on a girls'
7 school sports team?

8 MS. HOLCOMB: Object to form.

9 MR. TRYON: Objection.

10 THE WITNESS: I can't make a legal 02:10:15
11 determination.

12 BY MR. BARR:

13 Q Is it your understanding that this law would
14 prohibit B.P.J. from playing on her school's girls'
15 team? 02:10:28

16 A I'm not sure.

17 Q So sitting here today, you don't know one way
18 or the other whether B.P.J. could play on the girls'
19 team based --

20 MS. HOLCOMB: Ob- -- 02:10:44

21 BY MR. BARR:

22 Q -- on this law?

23 MS. HOLCOMB: Sorry. Object to form.

24 THE WITNESS: I'm not sure because I'm not an
25 attorney. 02:10:54

Page 80

1 BY MR. BARR:

2 Q What is your understanding of what happens if
3 you win in this lawsuit?

4 A I'm not sure.

5 Q Why did you think it would be important to 02:11:11
6 intervene if you don't understand the impact of
7 intervening?

8 A I believe that keeping this law in place will
9 result in fair and equitable playing for women in -- in
10 sports. 02:11:37

11 MR. BARR: That wasn't my question.

12 Court Reporter, can you read back the
13 question, please.

14 (Record read.)

15 MS. HOLCOMB: I'll just object to form. 02:12:03

16 THE WITNESS: I understand that intervening
17 means that I think that the bill is a good step of
18 legislation, and I believe that it will help keep the
19 playing fields even and equal, and that's why I thought
20 it was so important to intervene. 02:12:38

21 BY MR. BARR:

22 Q That brings me back to -- maybe I just didn't
23 understand your answer before.

24 What happens if you win?

25 A I guess the law stays as it is. 02:12:57

Page 81

1 Q And what happens if you lose?

2 A I can't speculate on what will happen if I
3 lose. I'm not sure.

4 Q Do you have any understanding at all?

5 MS. HOLCOMB: Object to form. 02:13:21

6 MR. TRYON: Objection.

7 THE WITNESS: I don't know.

8 BY MR. BARR:

9 Q Why did you intervene in the lawsuit if you
10 don't know what happens if you win or lose? 02:13:39

11 MS. HOLCOMB: Object to form.

12 MR. TRYON: Objection.

13 THE WITNESS: Again, that's not what I said.

14 I understand that if -- if this law stays in
15 place, that women will be protected and it will keep 02:13:53
16 the playing field even and equitable for women in
17 sports.

18 BY MR. BARR:

19 Q Which women?

20 A Women -- 02:14:05

21 MR. TRYON: Objection.

22 THE WITNESS: I'm confused on your question.

23 BY MR. BARR:

24 Q Well, you said that the law will protect
25 women's sports, something along those lines, and I'm 02:14:25

Page 82

1 asking, which women is it protecting?

2 A Women.

3 Q All women?

4 A Biological women in sports.

5 Q When did you first become aware of this law? 02:14:43

6 MS. HOLCOMB: Object to form and also to the
7 extent that it calls for privileged information again.

8 MR. BARR: You know, Christiana, I would be
9 willing to just -- I'm not trying to get any privileged
10 information at all. And if the answer is that 02:15:03
11 Ms. Armistead didn't know about this law until she
12 spoke with your office, I'll -- I'll move on. I'm just
13 trying to understand.

14 MS. HOLCOMB: Sure. We've -- this is also
15 asked and answered a couple of times, which is in part 02:15:14
16 while I raised the objection again. But yes, I will
17 continue to maintain attorney-client privileged
18 objections.

19 BY MR. BARR:

20 Q Okay. So I'll ask again, when did you first 02:15:26
21 become aware of this law?

22 MS. HOLCOMB: Same objection.

23 THE WITNESS: I can't answer that without
24 divulging privileged information with my attorney.

25 BY MR. BARR: 02:15:37

Page 83

1 Q Was Jamie Metzger part of that conversation?

2 A No.

3 Q I don't want to know anything that was said,

4 but who was at that -- who was present for that

5 conversation? 02:15:55

6 A Christiana.

7 Q Anyone else?

8 A No.

9 Q But you don't recall when that conversation

10 happened? 02:16:13

11 MS. HOLCOMB: Objection to form again.

12 THE WITNESS: Sometime in 2021.

13 BY MR. BARR:

14 Q Was it on the phone?

15 A I don't recall. 02:16:30

16 Q Was it in person?

17 A No.

18 Q So it was in some type of virtual format,

19 phone, computer, something like that?

20 A Yes. 02:17:01

21 Q Did Ms. Holcomb reach out to you, or did you

22 reach out to Ms. Holcomb?

23 MS. HOLCOMB: Again, objection to the extent

24 it calls for privileged information.

25 And I'm not sure why we're retreading ground 02:17:13

Page 84

1 that's already been covered, Counsel.

2 MR. BARR: I went back and looked at the
3 transcript, and I still don't fully understand, so I'm
4 just trying to make sure we have clarify on the record.

5 MS. HOLCOMB: I also want to just state my 02:17:24
6 objection to revisiting ground already trod.

7 MR. BARR: Noted.

8 THE WITNESS: I don't know how to give you an
9 answer without divulging attorney-client privileges.

10 BY MR. BARR: 02:17:38

11 Q Ms. Holcomb can certainly correct me, but the
12 manner in -- who -- who reached out to who wouldn't be
13 a privileged communication, I'm aware of, and I didn't
14 hear Ms. Holcomb direct you not to answer based on
15 privilege. So I'll ask the question again. 02:17:55

16 Did Ms. Holcomb reach out to you?

17 A Yes.

18 Q Does this law apply to club sports?

19 MR. TRYON: Objection.

20 MS. HOLCOMB: Object to form. 02:18:20

21 THE WITNESS: I don't know.

22 BY MR. BARR:

23 Q Does it apply to grade school sports?

24 MS. HOLCOMB: Objection to form.

25 MR. TRYON: Objection. 02:18:28

Page 85

1 THE WITNESS: I don't know.

2 BY MR. BARR:

3 Q Does it apply to intramural sports at
4 West Virginia State?

5 MR. TRYON: Objection. 02:18:38

6 MS. HOLCOMB: Objection to form.

7 THE WITNESS: I don't know.

8 BY MR. BARR:

9 Q Does it apply to all the schools in your
10 conference? 02:18:48

11 MS. HOLCOMB: Objection.

12 MR. TRYON: Objection.

13 THE WITNESS: I don't know.

14 BY MR. BARR:

15 Q Does it apply to all school-sponsored sports 02:18:58
16 in West Virginia?

17 MS. HOLCOMB: Object to form.

18 MS. MORGAN: Object to form.

19 MR. TRYON: Objection.

20 THE WITNESS: I don't know. 02:19:08

21 BY MR. BARR:

22 Q Tell me what you do know about this law.

23 A I don't know anything because I'm not an
24 attorney.

25 Q So to the extent you've said things about this 02:19:22

Page 86

1 law in other contexts, you didn't have a basis to say
2 that?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: Can you repeat the question?

5 BY MR. BARR: 02:19:42

6 Q Sure. I understood your last answer to be
7 that you don't understand the scope or impact of this
8 law because you're not a lawyer. Did I say that
9 correctly?

10 MS. HOLCOMB: Object to form. 02:19:56

11 THE WITNESS: That's not what I said.

12 BY MR. BARR:

13 Q What did you say?

14 A I said I'm not going to make legal
15 commentation on something that I can't make legal 02:20:03
16 commentation on because I'm not an attorney.

17 Q And by "legal commentation," you mean whether
18 or not the law applies to a particular school or a
19 particular person; is that right?

20 MS. HOLCOMB: Object to form. 02:20:23

21 BY MR. BARR:

22 Q You tell me what you meant by "legal
23 commentation."

24 A Any legal commentary, I'm going to say I don't
25 know. 02:20:36

Page 87

1 Q And discussing the impact of this law would
2 fall in legal commentary, as far as you understand it?

3 A What do you mean, the impact?

4 Q Well, I asked if you knew if this law applied
5 to club sports. Is that something that you would 02:20:56
6 consider legal commentary?

7 A I don't know if it applies.

8 Q And then I asked if this law applied to every
9 school in your conference. Is that something you would
10 consider legal commentary? 02:21:20

11 A I said I don't know.

12 Q And then I said, tell me what you do know
13 about this law.

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: What my understanding is, is 02:21:26
16 that this will protect women in sports.

17 BY MR. BARR:

18 Q What do you mean by "protect"?

19 A Women are built different than biological men.
20 Biological men are stronger, fitter, faster, have a 02:22:09
21 bigger stature, in general, than women. So this law,
22 it was put into place to protect women, women's safety
23 and their interests.

24 Q Is this law accomplishing what you just said
25 by excluding transgender women? 02:22:28

1 MS. HOLCOMB: Object to form.

2 MR. TRYON: Objection.

3 THE WITNESS: Can you restate the question,
4 please?

5 MR. BARR: Is -- 02:22:45

6 Court Reporter, could you read the question
7 back, please.

8 (Record read.)

9 MS. HOLCOMB: Same objection.

10 THE WITNESS: Can you restate it in a 02:23:05
11 different way?

12 BY MR. BARR:

13 Q Is it that you don't understand the question?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: I just would like you to restate 02:23:11
16 it in a different way.

17 BY MR. BARR:

18 Q You just told me a series of things that you
19 believe the law is accomplishing; is that right?

20 A Yes. 02:23:27

21 Q And you said fairness, and I believe you said
22 safety; is that right?

23 A Correct.

24 Q And my question to you is, how is this law
25 accomplishing those goals? 02:23:41

Page 89

1 MS. HOLCOMB: Object to form.

2 THE WITNESS: By -- by protecting fairness and
3 safety for biological women in sports.

4 BY MR. BARR:

5 Q I understand that that's what you believe the 02:24:01
6 goal of the law to be. I'm asking how it does that.

7 MS. HOLCOMB: Object to form.

8 MR. TRYON: Objection.

9 THE WITNESS: That's not for me to interpret.

10 BY MR. BARR: 02:24:13

11 Q Well, you're intervening in this lawsuit to
12 protect the law. I'm trying to understand why.

13 What do you think this law is doing? How does
14 it accomplish those goals?

15 MS. HOLCOMB: Object to form. 02:24:22

16 MR. TRYON: Objection.

17 THE WITNESS: I don't know. I think I already
18 answered your question.

19 BY MR. BARR:

20 Q So you don't know how the law accomplishes 02:24:36
21 those goals; you're just aware that those are the goals
22 of the law?

23 MR. TRYON: Objection.

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: I'm aware that that's what, I 02:24:52

Page 90

1 believe, the law would be doing if it's in effect, yes.

2 BY MR. BARR:

3 Q If the law is in effect, can B.P.J. play on a
4 girls' team?

5 MS. HOLCOMB: Object to form. 02:25:00

6 THE WITNESS: I don't know.

7 BY MR. BARR:

8 Q If the law is in effect, can a transgender
9 woman play on a girls' team?

10 MS. HOLCOMB: Object to form. 02:25:13

11 MR. TRYON: Objection.

12 THE WITNESS: I don't know.

13 BY MR. BARR:

14 Q Does this law apply to contact sports?

15 MS. HOLCOMB: Object to form. 02:25:40

16 THE WITNESS: I don't know.

17 BY MR. BARR:

18 Q Does this law apply to noncontact sports?

19 MS. HOLCOMB: Object to form.

20 THE WITNESS: I don't know. 02:25:57

21 BY MR. BARR:

22 Q Do you have any understanding what sports this
23 law applies to?

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: I don't know. 02:26:09

Page 91

1 BY MR. BARR:

2 Q Do you know if this law applies to esports,
3 when people sit around and play video games on behalf
4 of their school?

5 MS. HOLCOMB: Object to form. 02:26:28

6 THE WITNESS: I don't know.

7 BY MR. BARR:

8 Q Do you know if this law is different than the
9 NCAA's policy regarding transgender women playing
10 school sports? 02:26:45

11 MS. HOLCOMB: Object to form.

12 THE WITNESS: I don't know.

13 BY MR. BARR:

14 Q You said it's your understanding this law will
15 protect women for safety and fairness reasons. Did I 02:27:02
16 understand that correctly?

17 A Yes.

18 Q Are there any other things that this law does?

19 MS. HOLCOMB: Object to form.

20 THE WITNESS: I told you what my understanding 02:27:15
21 was.

22 BY MR. BARR:

23 Q I'm just trying to make sure I'm comprehensive
24 in understanding what you told me. I heard "fairness
25 and safety." Is there anything else? 02:27:31

Page 92

1 MS. HOLCOMB: Object to form.

2 THE WITNESS: I don't know.

3 BY MR. BARR:

4 Q Would you be surprised to learn that this law
5 does not apply to every school in your conference? 02:28:01

6 MS. HOLCOMB: Objection.

7 MR. TRYON: Objection.

8 THE WITNESS: I don't know.

9 BY MR. BARR:

10 Q You don't know if you would be surprised, or 02:28:11
11 you didn't know that that was the case?

12 MS. HOLCOMB: Object to form.

13 MR. TRYON: Objection.

14 THE WITNESS: I just don't know.

15 BY MR. BARR: 02:28:24

16 Q I heard you. I'm trying to figure out what
17 you don't know.

18 Do you not know that the law doesn't apply to
19 every school in your conference?

20 MS. HOLCOMB: Object to form. 02:28:34

21 MR. TRYON: Objection.

22 THE WITNESS: I don't know. No, I don't know.

23 BY MR. BARR:

24 Q Is this law changing things from the way they
25 were before? 02:29:00

Page 93

1 MS. HOLCOMB: Object to form.

2 MR. TRYON: Objection.

3 THE WITNESS: I don't know.

4 BY MR. BARR:

5 Q Would you expect that if a law is passed, it's 02:29:15
6 meant to change things?

7 MS. HOLCOMB: Object to form.

8 MR. TRYON: Objection.

9 THE WITNESS: I don't know.

10 BY MR. BARR: 02:29:25

11 Q Do you know any transgender people?

12 MR. TRYON: Objection.

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: I have an -- had an acquaintance
15 a few years ago, that there are rumors that they have 02:29:55
16 transitioned or started a transition or something, but
17 I'm really not certain.

18 BY MR. BARR:

19 Q Who is that person?

20 A I don't know the name they currently go by. 02:30:09

21 Q Well, I appreciate you not using their former
22 name.

23 Other than that person, do you know any
24 transgender people?

25 MS. HOLCOMB: Object to form. 02:30:29

Page 94

1 THE WITNESS: Not to my knowledge, but I don't
2 know.

3 BY MR. BARR:

4 Q Have you ever competed in a soccer game with
5 or against someone who's transgender? 02:30:44

6 A I'm not sure. I don't know.

7 Q Are there any transgender women playing on a
8 team in the Mountain East Conference.

9 MR. TRYON: Objection.

10 THE WITNESS: I don't know. 02:31:05

11 BY MR. BARR:

12 Q Have you ever heard of the phrase "inner sense
13 of self"?

14 A No.

15 Q If I asked you to tell me what that phrase 02:31:20
16 means, would you be able to do that?

17 MR. TRYON: Objection.

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: No.

20 BY MR. BARR: 02:31:27

21 Q Have you ever seen that phrase written on a
22 piece of paper?

23 A It's possible. I do a lot of reading.

24 Q But nothing specific comes to mind?

25 A Correct. 02:31:42

1 Q What do you know about puberty blockers?

2 MR. TRYON: Objection.

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I don't know.

5 BY MR. BARR: 02:32:11

6 Q Have you ever heard of puberty blockers?

7 A I've heard of that.

8 Q What is your understanding of what puberty
9 blockers are?

10 MR. TRYON: Objection. 02:32:27

11 MS. HOLCOMB: Same objection.

12 THE WITNESS: I don't know.

13 BY MR. BARR:

14 Q So you've heard of it, but you don't have an
15 understanding of what it means? 02:32:33

16 A Correct.

17 Q Have you ever heard of hormone replacement
18 therapy?

19 A Yes.

20 Q Do you have an understanding of what that is? 02:32:46

21 MS. HOLCOMB: Object to form.

22 THE WITNESS: I don't know.

23 BY MR. BARR:

24 Q I'm sorry, I didn't hear you.

25 A I don't know. 02:32:56

1 Q Do you have any thoughts about what happens to
2 someone who starts puberty blockers before going
3 through puberty?

4 A I don't know.

5 Q Have you ever read anything that describes 02:33:22
6 what might happen to someone who takes puberty blockers
7 before going through puberty?

8 A I'm not sure.

9 Q Do you think transgender girls are faster than
10 you? 02:33:50

11 MR. TRYON: Objection.

12 A I think in general, biological males are
13 stronger, fitter, faster and have a bigger stature than
14 women do.

15 BY MR. BARR: 02:34:11

16 Q My question was, do you think transgender
17 girls are faster than you?

18 MR. TRYON: Objection.

19 MS. HOLCOMB: Objection; form.

20 THE WITNESS: I think in general, biological 02:34:18
21 males are faster than me, yes.

22 BY MR. BARR:

23 Q So if I'm hearing you correctly, and I'm not
24 trying to put words in your mouth, your response was
25 that all biological males are faster than you? 02:34:44

Page 97

1 MR. TRYON: Objection.

2 MS. HOLCOMB: Objection.

3 BY MR. BARR:

4 Q Is that what you said?

5 A I believe I said in general. 02:34:57

6 Q Do you believe that all transgender girls --
7 let me rephrase it.

8 Do you believe, in general, transgender girls
9 are faster than you?

10 MS. HOLCOMB: Objection -- 02:35:12

11 MR. TRYON: Objection; asked and answered.

12 THE WITNESS: I already answered that.

13 BY MR. BARR:

14 Q You answered about biological males. I'm
15 asking about transgender girls. 02:35:24

16 MS. HOLCOMB: Object to form.

17 MR. TRYON: Objection.

18 THE WITNESS: I believe biological males are
19 in gen- -- are generally faster than females.

20 BY MR. BARR: 02:35:36

21 Q Every time that I ask about a transgender girl
22 and you respond with "biological males," are we, from
23 your perspective, talking about the same thing, the
24 same group of people?

25 A Yes. 02:35:47

Page 98

1 Q So if I ask a question and you respond saying
2 "biological males," I can understand you to be, from my
3 perspective, my definition, meaning a transgender girl;
4 is that right?

5 MS. HOLCOMB: Object to form. 02:36:02

6 MR. TRYON: Objection.

7 THE WITNESS: I'm just going to answer the
8 questions how I know to answer the questions.

9 BY MR. BARR:

10 Q I understand, but I'm just trying to speed 02:36:14
11 this up for both of us. If I can understand that when
12 I say "transgender girl" and you respond with
13 "biological male," if we're -- if you're answering the
14 question I'm asking, and we're all talking about the
15 same group of people with our understood difference of 02:36:27
16 opinion there, it's going to allow us to run through
17 the next set of questions faster, but I'm happy to not
18 do that if you don't want to.

19 MS. HOLCOMB: Object to form.

20 MR. TRYON: Objection. 02:36:40

21 THE WITNESS: I'm still going to answer how
22 I've been answering.

23 BY MR. BARR:

24 Q Okay. Do you believe that transgender girls
25 are bigger than you? 02:37:04

1 MS. HOLCOMB: I'm sorry, Andrew, we didn't
2 fully hear your question.

3 MR. BARR: I asked if it was her belief that
4 transgender girls are bigger than her.

5 THE WITNESS: In general, biological men are 02:37:20
6 bigger than women, yes.

7 BY MR. BARR:

8 Q Where did you form that opinion?

9 A Observation.

10 Q Is that it? 02:37:40

11 A Yes. Looking around, in everyday life, I can
12 see that biological men are typically bigger than me.

13 Q Do you recognize there's a difference between
14 transgender women and biological men?

15 MS. HOLCOMB: Object to form. 02:38:11

16 THE WITNESS: I don't know.

17 BY MR. BARR:

18 Q Why do you keep using the phrase "biological
19 male"?

20 MS. HOLCOMB: Object to form. 02:38:24

21 THE WITNESS: Because that's my vocabulary.

22 BY MR. BARR:

23 Q Why don't you also say "biological female,"
24 then?

25 MS. HOLCOMB: Object to form. 02:38:51

Page 100

1 MR. TRYON: Objection.

2 THE WITNESS: I don't know.

3 BY MR. BARR:

4 Q So a typical conversation, you'll say "women"

5 and "biological males"? 02:39:01

6 MS. HOLCOMB: Object to form.

7 THE WITNESS: I don't know. Probably not.

8 BY MR. BARR:

9 Q So why do you keep saying that today?

10 MS. HOLCOMB: Object to form. 02:39:14

11 MR. TRYON: Objection.

12 THE WITNESS: Because I'm choosing to.

13 BY MR. BARR:

14 Q Why are you making that decision?

15 MS. HOLCOMB: Object to form. 02:39:26

16 THE WITNESS: That's how I'm choosing to

17 answer your questions.

18 BY MR. BARR:

19 Q Okay. Well, let me -- help me. What is a

20 biological male? 02:39:41

21 MS. HOLCOMB: Object to form.

22 THE WITNESS: Someone who -- I believe someone

23 whose gender is male, assigned male at birth and is a

24 male.

25 BY MR. BARR: 02:40:09

Page 101

1 Q That's a biological male?

2 A Yes.

3 Q What word do you describe someone who was
4 assigned male at birth, but their gender identity is
5 female?

02:40:25

6 MS. HOLCOMB: Object to form.

7 THE WITNESS: I would say "biological male."

8 BY MR. BARR:

9 Q So explain to me the difference between what I
10 ask and what you're saying for biological male.

02:40:43

11 MR. TRYON: Objection.

12 MS. HOLCOMB: Object to form.

13 THE WITNESS: I'm sorry?

14 BY MR. BARR:

15 Q If I heard you correctly, you said a
16 biological male is someone who is assigned the sex of
17 male at birth, has a gener -- gender identity of male.
18 Did I get that correct?

02:40:58

19 MS. HOLCOMB: Object to form.

20 THE WITNESS: I'm not sure. I'm not a doctor.

02:41:13

21 BY MR. BARR:

22 Q Okay. Let's -- let's start over. I must have
23 misheard you.

24 What is your understanding of what a
25 biological male is?

02:41:22

Page 102

1 A I'm not a doctor.

2 Q I -- I understand that you're not a doctor.

3 What is your understanding of what a
4 biological male is?

5 A I don't know. 02:41:32

6 Q The court reporter could tell us, but I bet
7 you used the word -- the phrase "biological male" more
8 than 30 times. What does it mean?

9 MS. HOLCOMB: Object to form.

10 MR. TRYON: I'm just going to object. Asked 02:42:17
11 and answered.

12 THE WITNESS: Someone who was -- I think
13 someone who was assigned male at birth and identifies
14 as a male.

15 BY MR. BARR: 02:42:41

16 Q Okay. That's what I heard you say the first
17 time, so I appreciate you clarifying that.

18 What do you call someone who was assigned male
19 at birth but identifies as a female?

20 MS. HOLCOMB: Object to form. 02:42:52

21 THE WITNESS: Biological male.

22 BY MR. BARR:

23 Q So regardless how the person identifies, you
24 would call them a biological male?

25 MR. TRYON: Objection. 02:43:09

Page 103

1 THE WITNESS: I didn't say what I would call
2 them. That's just how I'm referring to what you're
3 asking today, biological males.

4 BY MR. BARR:

5 Q So if it wasn't today, what would you refer to 02:43:22
6 them as?

7 MS. HOLCOMB: Object to form.

8 MR. TRYON: Objection.

9 THE WITNESS: I would think it's someone who's
10 a biological male. 02:43:42

11 MR. BARR: Court Reporter, could you read the
12 answer prior to the last answer, please.

13 (Record read.)

14 BY MR. BARR:

15 Q So what would you call them? 02:44:05

16 MS. HOLCOMB: Object to form.

17 THE WITNESS: If someone asks me to call them
18 by a certain name, then I would, but that doesn't mean
19 that it changes what I am considering a biological
20 male. 02:44:22

21 BY MR. BARR:

22 Q Could you explain that? Because that doesn't
23 make any sense to me.

24 A I would respect what someone would want their
25 name to be called. 02:44:36

Page 104

1 Q So if somebody walked up and said, I'm a
2 transgender female, you would refer to them as a
3 transgender female?

4 A I --

5 MS. HOLCOMB: Object to form. 02:44:52

6 MR. TRYON: Objection.

7 THE WITNESS: If someone asked me to call them
8 by "Joe," then I would call them by their name -- by
9 what name that they told me that they wanted to be
10 called, which would be "Joe," "Michael," whatever it 02:45:04
11 would be, but that doesn't change my answer of
12 biological male.

13 BY MR. BARR:

14 Q I think I understand what you're -- you are
15 saying that you would respect the name that they would 02:45:18
16 like to be called, but regardless, you would still
17 consider someone who was assigned male at birth a
18 biological male?

19 A Yes.

20 Q Where did you learn that phrase? 02:45:37

21 That's not how most people talk in day-to-day
22 conversation, so I'm trying to understand why you're
23 choosing to use it today.

24 A I thought it would clarify the conversation so
25 you would know what I was talking about. 02:46:01

Page 105

1 Q And why did you think that?

2 A Because of your terms that you've been using.

3 Q I don't -- I don't understand. The terms that

4 I'm using have led -- let you to use the term

5 "biological male"? 02:46:30

6 MR. TRYON: Objection.

7 MS. HOLCOMB: Object to form.

8 THE WITNESS: I think it's -- it's clarifying

9 the conversation, but I will just refer to all

10 biological males as "males" from now on, if you would 02:46:42

11 prefer.

12 BY MR. BARR:

13 Q No, you should answer however you feel most

14 comfortable. I'm just trying to make sure I

15 understand. 02:46:52

16 When did you first use the phrase "biological

17 male"?

18 A I couldn't tell you.

19 Q You've been using it your whole life?

20 A I might have said it a long time ago at some 02:47:04

21 point. I'm not sure.

22 Q If you were to introduce me to your brother,

23 would you say, This is Declan, a biological male?

24 MR. TRYON: Objection; harassment.

25 MS. HOLCOMB: Object to form. 02:47:22

Page 106

1 THE WITNESS: No.

2 BY MR. BARR:

3 Q How would you introduce me to Declan?

4 A "This is Declan."

5 Q So what changed that you want to use the 02:47:38
6 phrase "biological male" today if you don't use it in
7 common speak?

8 MR. TRYON: Objection; asked and answered
9 about three times now.

10 MS. HOLCOMB: Object to form. 02:47:53

11 THE WITNESS: I think I answered that.

12 BY MR. BARR:

13 Q Just give me a moment.

14 Did I hear you say earlier that you're not
15 aware of having been on a team with a transgender girl? 02:48:35

16 A I'm not aware of that, no.

17 Q Have you ever been injured by a transgender
18 girl?

19 A Not to my knowledge.

20 Q Have you ever been harmed by a transgender 02:48:55
21 girl?

22 MR. TRYON: Objection.

23 MS. HOLCOMB: Object to form.

24 THE WITNESS: Not to my knowledge.

25 ///

1 BY MR. BARR:

2 Q Do you play any sports at West Virginia State
3 other than soccer?

4 A No.

5 Q Do you have plans to play any other sports at 02:49:31
6 West Virginia State other than soccer?

7 A No.

8 Q Do you believe that H.B. 3293 applies to the
9 West Virginia women's soccer team?

10 MS. HOLCOMB: Object to form. 02:49:48

11 THE WITNESS: I'm not sure.

12 BY MR. BARR:

13 Q What position do you play?

14 A Left center back.

15 Q Have you always played that position? 02:50:03

16 A No.

17 Q What position did you play before that?

18 A I've played in many different positions on the
19 soccer field.

20 Q And when did you become a left center back as 02:50:24
21 a regular position?

22 A My sophomore year of college.

23 Q What position were you your freshman year of
24 college?

25 A Left wingback or left center back. 02:50:41

Page 108

1 Q Why did you change?

2 A I was needed for the left center back
3 position.

4 Q Your choice or the coach's choice?

5 MS. HOLCOMB: Object to form. 02:51:11

6 THE WITNESS: My coach's choice.

7 BY MR. BARR:

8 Q You don't seem happy with that choice; is that
9 right?

10 MS. HOLCOMB: Object to form. 02:51:22

11 THE WITNESS: I love both positions probably
12 equally.

13 BY MR. BARR:

14 Q Well, I was a wingback, and I loved running,
15 you know, the edges of the field, so I would understand 02:51:39
16 if you were a little upset about it, but in any event.

17 Is your team good?

18 A Yes.

19 Q How long has West Virginia State had a team, a
20 women's soccer team? 02:52:00

21 A Since fall of 2019.

22 Q You were on the inaugural team; right?

23 A Yes.

24 Q Did you play your freshman year?

25 A Yes. 02:52:21

1 Q Did you start?

2 A Yes.

3 Q Every game?

4 A I was injured, but other than that, yes.

5 Q How were you injured? 02:52:41

6 A I had to sit out one game for a fractured
7 foot, and I think that's it for my freshman year.

8 Q What was your record freshman year?

9 A I don't recall. Good. It was good, though.

10 Q More wins than losses? 02:53:15

11 A Yes.

12 Q Did you go to the conference tournament that
13 year?

14 A Since it was an inaugural season, no.

15 Q The conference didn't allow you to play? 02:53:41

16 Explain that.

17 A For first-year teams, although we were playing
18 games and competing, it was not for the title. That is
19 how I still have an extra year of NCAA eligibility and
20 one of the reasons that I decided to come to 02:54:03
21 West Virginia State.

22 Q I understood the part about eligibility.

23 Why did that encourage you to attend
24 West Virginia State?

25 A Because it would let me play soccer for 02:54:15

Page 110

1 longer.

2 Q What was your team's record last year, 2020?

3 A I'm not sure of the record, but we qualified
4 for the tournament.

5 Q Did you win the tournament? 02:54:36

6 A No.

7 Q Did you make it to the finals?

8 A No.

9 Q How did you guys do?

10 A We lost in the first round. 02:54:51

11 Q What about this year, 2021?

12 A Oh, I was answering for this last season,
13 sorry.

14 Q No, that's okay.

15 So in 2021, this year, you qualified for the 02:55:14

16 tournament, but didn't make it past the first round; is

17 that right?

18 A Yes.

19 Q What happened in 2020, last year?

20 I imagine COVID impacted your season or 02:55:23

21 something, but I'm still curious how you-all did.

22 A Yes, COVID impacted it. So instead of the
23 fall, we played a shorter spring season. And I don't
24 remember how we did, but we didn't get into the
25 tournament. 02:55:41

Page 111

1 Q I imagine it was a big step to -- to qualify
2 this year.

3 A Yes. It was impressive for our first official
4 season in the NCAA.

5 Q Over the last three years, have you played a 02:55:59
6 college called "Notre Dame"? And I'm not talking about
7 the Fighting Irish. I'm talking about the Notre Dame
8 in your conference.

9 A Yes.

10 Q Did you play the Fighting Irish? 02:56:13

11 A No, we didn't.

12 Q So if I -- if I talk about Notre Dame, you'll
13 understand I'm talking about the Notre Dame in your
14 conference?

15 A Yes. 02:56:23

16 Q Do you know where Notre Dame is located?

17 A I'm not sure.

18 Q Would it surprise you to find out it is not in
19 West Virginia?

20 MS. HOLCOMB: Object to -- object to form. 02:56:36

21 THE WITNESS: That wouldn't surprise me.

22 BY MR. BARR:

23 Q How about a school called "Frostburg"?

24 A What about it?

25 Q Have you played a game against Frostburg? 02:56:53

Page 112

1 A Yes.

2 Q Do you know where Frostburg is located?

3 A Not in West Virginia.

4 Q I'm asking you.

5 A I don't know. It was a guess. 02:57:06

6 Q Would you be surprised to find out it's not in
7 West Virginia?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: No.

10 BY MR. BARR: 02:57:15

11 Q Do you have any understanding of whether
12 H.B. 3293 applies to Notre Dame?

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: I don't know.

15 BY MR. BARR: 02:57:28

16 Q The same question for Frostburg.

17 MS. HOLCOMB: Same objection.

18 MR. TRYON: Objection.

19 THE WITNESS: I don't know.

20 BY MR. BARR: 02:57:40

21 Q If you end up playing on the team next year,
22 do you anticipate you'll play against Notre Dame?

23 MS. HOLCOMB: Object to form.

24 THE WITNESS: Most likely.

25 ///

1 BY MR. BARR:

2 Q And you say most likely because they're one of
3 the schools in your conference; right?

4 A Right.

5 Q Do you also expect that if you were to play on 02:58:02
6 the team next year, you would play against Frostburg,
7 given that Frostburg is in your conference?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: It's likely.

10 BY MR. BARR: 02:58:17

11 Q Do you have any understanding whether a
12 transgender woman can play on Frostburg or Notre Dame's
13 team?

14 MR. TRYON: Objection.

15 MS. HOLCOMB: Object to form. 02:58:37

16 THE WITNESS: I don't know.

17 BY MR. BARR:

18 Q If you found out that a transgender woman was
19 on Notre Dame or Frostburg's team, what would you do?

20 MR. TRYON: Objection. 02:58:46

21 MS. HOLCOMB: Object to form.

22 THE WITNESS: I would play a soccer game.

23 BY MR. BARR:

24 Q I understand you have a medical concern that
25 may impact soccer, but assuming that everything goes 02:59:19

Page 114

1 well for you and that doesn't impact your game, do you
2 plan on playing competitive soccer after college?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: What kind of competitive soccer?

5 BY MR. BARR: 02:59:35

6 Q Do you have -- fair. I'll ask a different
7 question.

8 Do you have any plans to play soccer
9 postgraduation, of any kind?

10 A If the opportunity arises, I would love to 02:59:50
11 continue playing soccer.

12 Q What type of opportunities are you aware of
13 for playing soccer postgraduation?

14 A I'm sure in many cities there are women's
15 teams that I could join for things like that. 03:00:26

16 Q So some type of recreational, fun league is
17 what you're referencing?

18 A Yes.

19 Q Any plans of trying out or trying to join the
20 U.S. women's national team? 03:00:47

21 A No.

22 Q Do you know anybody on that team?

23 A No.

24 Q Would you agree with me they're probably the
25 best players in the country, if not the world, when it 03:01:10

Page 115

1 comes to women's soccer?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: I think that they are amazing
4 athletes.

5 BY MR. BARR: 03:01:30

6 Q What was your reaction when you saw that they
7 recently got equal pay for women on the national team?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I was happy for them.

10 BY MR. BARR: 03:01:53

11 Q Did you happen to see their game last month in
12 Texas?

13 A I did not.

14 Q Did you see the team came out publicly
15 supporting transgender youth? 03:02:06

16 MR. TRYON: Objection.

17 MS. HOLCOMB: Object to form.

18 THE WITNESS: I did not see that.

19 MR. BARR: We can go off the record.

20 THE VIDEOGRAPHER: All right. We are going 03:02:28
21 off the record. The time is 3:03 p.m., and this is the
22 end of Media Unit No. 3.

23 (Recess.)

24 THE VIDEOGRAPHER: We where back on the record
25 at 3:13 p.m., and this is the beginning of Media Unit 03:13:03

Page 116

1 No. 4.

2 Go ahead, please.

3 BY MR. BARR:

4 Q Ms. Armistead, do you know what Title IX is?

5 A I -- I've heard of it before. 03:13:19

6 Q What is your understanding of Title IX?

7 A I believe it's to give equal opportunities to
8 women.

9 Q Do you have any other understandings about
10 Title IX? 03:13:46

11 A I don't know for certain.

12 Q So if I heard you correctly, Title IX is about
13 protecting women's rights; is that right?

14 MR. TRYON: Objection.

15 MS. HOLCOMB: Object to form. 03:14:14

16 THE WITNESS: In my opinion, yes.

17 BY MR. BARR:

18 Q How did you form that opinion?

19 A I believe we have to have Title IX trainings
20 to participate in collegiate athletics. 03:14:31

21 Q And those are annual, aren't they?

22 A Yes.

23 Q So at this point, you've attended three
24 Title IX trainings; is that right?

25 A I'm not sure about the third one yet. 03:14:45

Page 117

1 Q So you know you've attended two and possibly a
2 third; is that fair?

3 A I believe so, yes.

4 Q Who conducts that training?

5 A I think it might be online. I'm not for sure. 03:15:05

6 Q That wasn't a fair question, I'm sorry.

7 Is that put on by your school?

8 A Yes.

9 Q So as a student athlete, you're required to
10 sit through a Title IX training on some type of basis. 03:15:27
11 Is that accurate?

12 A Yes.

13 Q What did you learn at those trainings?

14 A I don't recall specifics.

15 Q Do you believe that your school complies with 03:15:50
16 Title IX?

17 MS. HOLCOMB: Object to form.

18 MR. TRYON: Objection.

19 THE WITNESS: I don't know.

20 BY MR. BARR: 03:16:09

21 Q Do you have any reason to think your school
22 doesn't comply with Title IX?

23 A I have no reason to think that, no.

24 Q Do women's rights include transgender women's
25 rights? 03:16:30

Page 118

1 MS. HOLCOMB: Object to form.

2 MR. TRYON: Objection.

3 THE WITNESS: I believe that women's --

4 whenever I am referring to women's rights, I'm

5 referring to biological women's rights. 03:16:48

6 BY MR. BARR:

7 Q Does that mean transgender women don't have

8 rights?

9 MR. TRYON: Objection.

10 MS. HOLCOMB: Object to form. 03:16:57

11 THE WITNESS: That's definitely not what I

12 said.

13 BY MR. BARR:

14 Q If Title IX protects women's rights, but not

15 transgender women's rights, what rights do transgender 03:17:14

16 women have?

17 MR. TRYON: Objection; asked and answered.

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: I don't know.

20 BY MR. BARR: 03:17:34

21 Q Do you think transgender women should be

22 protected by the law?

23 MR. TRYON: Objection.

24 MS. HOLCOMB: Object to form.

25 By what law? 03:17:50

Page 119

1 BY MR. BARR:

2 Q Just any law.

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I believe that living in the
5 United States allows all people in the United States to 03:18:01
6 have rights and protections under the Constitution.

7 BY MR. BARR:

8 Q And that would include transgender women?

9 MR. TRYON: Objection.

10 THE WITNESS: That would include everyone. 03:18:19

11 BY MR. BARR:

12 Q Does West Virginia State do a good job of
13 protecting women's rights?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: I don't have any reason to think 03:18:39
16 that it doesn't.

17 BY MR. BARR:

18 Q Have any of your school's policies regarding
19 Title IX harmed you?

20 MS. HOLCOMB: Object to form. 03:18:53

21 THE WITNESS: I don't know what you're asking.

22 BY MR. BARR:

23 Q Has your school ever done something, on the
24 premise that Title IX requires them to do so, that you
25 disagree with? 03:19:16

Page 120

MS. HOLCOMB: Object to form.

BY MR. BARR:

██████████

11 of 11

██████████

MR. BARR: Let's go off the record.

MS. HOLCOMB: Yeah, that sounds great.

THE VIDEOGRAPHER: Hang on. Hang on. Hang

on.

03:20:30

We're going off the record. The time is

3:21 p.m.

(Recess.)

THE VIDEOGRAPHER: All right. We are back on

the record at 3:29 p.m.

03:28:54

Go ahead, please.

(Lainey Armistead left the room.)

██████████

1

2

3

4

5

6

7

8

9

10

11

12

13

14

(Lainey Armistead entered the room.)

15

MR. BARR: Ms. Armistead, I've introduced an

03:29:49

16

exhibit, Exhibit 43. Let me know when you've got it in

17

front of you.

18

(Exhibit 43 was marked for identification

19

by the court reporter and is attached hereto.)

20

THE WITNESS: Got it.

03:30:12

21

MS. HOLCOMB: If you'll hold for just one

22

moment, I don't.

23

Okay. You're good to proceed. Thank you.

24

BY MR. BARR:

25

Q Do you recognize the document, Ms. Armistead?

03:30:19

Page 122

1 A Um.

2 Q I can ask a different question.

3 Is this the policy that would have presented

4 to you on an annual basis as part of the Title IX

5 training at West Virginia State University?

03:30:42

6 A It could have been.

7 Q So this document, Exhib- -- Exhibit 43, is

8 entitled "Unlawful Discrimination and Harassment,

9 Sexual Harassment, Grievance Procedures, Child Abuse

10 and Neglect Reporting and Relationships."

03:31:14

11 Did I read that correctly, Ms. Armistead?

12 A Yes.

13 Q And this is published by the West Virginia

14 State University Board of Governors as BOG Policy

15 No. 14.

03:31:31

16 Did I read that correctly?

17 A Yes.

18 Q You have the right to read this whole policy,

19 if you would like; otherwise, I can direct you to

20 specific questions. You let me know what you prefer.

03:31:38

21 A You can direct me.

22 Q Okay. If you go to the bottom of page 1,

23 you'll see section 3.1. Tell me when you see that.

24 A Got it.

25 Q Cognoscente of the break we just had, I'm

03:31:58

Page 123

1 going to just pinpoint a couple of specific words and
2 phrases for you; however, if you would like to read the
3 whole paragraph, you're more than welcome to do so,
4 okay?

5 3.1 says (as read): 03:32:10

6 "Title IX of the Education
7 Amendments...and other state and
8 federal laws prohibit unlawful
9 discrimination on the basis of sex."

10 Do you see that? 03:32:23

11 A I do see that.

12 Q Did I read that correctly?

13 A Yes.

14 Q If you keep going, it says (as read):

15 "In accordance with The West Virginia 03:32:37

16 Higher Education Policy Commission and
17 Board of Governors Policy #17, the
18 University considers" --

19 And I'm going to skip through some of these.

20 (As read): 03:32:47

21 -- sex and gender and gender identity
22 as protected under federal, state and
23 local antidiscrimination laws as
24 protected characteristics and will not
25 permit unlawful discrimination or

03:33:00

Page 124

1 harassment.

2 Did you follow that?

3 A Yes.

4 Q What do you understand the phrase "basis of

5 sex" mean -- to mean? 03:33:15

6 A I believe that that is referring to the gender
7 of someone.

8 Q Do you have any reason to dispute your

9 school's statement that Title IX and other state and
10 federal laws prohibit unlawful discrimination on the 03:33:45
11 basis of sex?

12 MS. HOLCOMB: Object to form.

13 THE WITNESS: I don't know.

14 BY MR. BARR:

15 Q You don't know if you have a reason to dispute 03:33:59
16 it, or you just don't know if that's true?

17 MS. HOLCOMB: Object to form.

18 THE WITNESS: I don't know if I have a reason
19 to dispute it.

20 BY MR. BARR: 03:34:08

21 Q Does that mean you don't have a reason to
22 dispute it?

23 MS. HOLCOMB: Object to form.

24 THE WITNESS: I don't know.

25 ///

1 BY MR. BARR:

2 Q Okay. Scroll down and you'll go to
3 section 5.1. Are you there?

4 A Yes.

5 Q All right. The very first clause, and that's 03:34:28
6 where we'll stop, it says (as read):

7 "The University prohibits Protected
8 Class Discrimination and Harassment."

9 Did I read that correctly?

10 A Yes. 03:34:40

11 Q Do you know what discrimination is?

12 MS. HOLCOMB: Object to form.

13 THE WITNESS: I have heard that word before.

14 BY MR. BARR:

15 Q What is your understanding of the meaning of 03:34:57
16 the word "discrimination"?

17 MR. TRYON: Objection.

18 MS. HOLCOMB: Object to form.

19 THE WITNESS: I think it's a broad word, and
20 it would be hard for your -- me to give you a 03:35:16
21 definition without looking it up.

22 BY MR. BARR:

23 Q Okay. How about harassment, do you know what
24 the word "harassment" means?

25 MS. HOLCOMB: Object to form. 03:35:26

Page 126

1 MR. TRYON: Objection.

2 THE WITNESS: I have a good idea of what the
3 word "harassment" means.

4 MR. BARR: Okay. Let's --

5 MR. TRYON: Excuse me, Andrew, can we excuse 03:35:41
6 the witness for a minute? I'd like to talk about
7 something on the record without -- without the witness.

8 MS. HOLCOMB: You can step out.

9 (Lainey Armistead left the room.)

10 MR. TRYON: Christiana, is she out of the 03:35:57
11 room?

12 MS. HOLCOMB: Yes, she is now.

13 MR. TRYON: So, you know, forgive me, but I
14 don't understand how this witness could possibly
15 provide any useful information about a school policy 03:36:06
16 that is full of legalisms, and if you want to depose
17 somebody on it, it ought -- ought to be the school,
18 about what the school -- school's view is on this form.

19 What her form -- her views on this form are
20 seem to me to be completely irrelevant, and I'm not 03:36:19
21 sure why we're going through this. I -- I suppose you
22 can -- can do this, but it seems like a waste of time.

23 And could you just kind of enlighten me how
24 you think this is in some way relevant, especially with
25 this witness? 03:36:33

Page 127

1 MR. BARR: This is the Title IX policy in a
2 case about Title IX, and I'm just curious what the
3 witness's understanding of Title IX is.

4 MR. TRYON: But it doesn't matter what this
5 witness's understanding of Title IX is. That is in 03:36:45
6 fact the legal dispute across the country about what
7 Title IX means.

8 So how is this witness in any way relevant to
9 what Title IX --

10 MR. BARR: Mr. Tryon -- 03:36:56

11 MR. TRYON: -- actually means?

12 MR. BARR: Mr. Tryon, do you want to have this
13 discussion off the record, or no?

14 MR. TRYON: No, I wanted it on the record so I
15 can understand what you're doing -- 03:37:04

16 MR. BARR: Okay. And --

17 MR. TRYON: -- and why we're going to spend an
18 hour talking about a form that she just can't possibly
19 give a legal interpretation on.

20 MR. BARR: I'm not asking for a legal 03:37:13
21 interpretation. I have every right to ask about this,
22 as you acknowledged. So if we're going to stay on the
23 record, let's just keep going.

24 MR. TRYON: I didn't really acknowledge that,
25 but go ahead. So you're not -- you can't justify to me 03:37:18

Page 128

1 why we're doing this?

2 MR. BARR: I just told you why we're doing
3 this.

4 MR. TRYON: Yeah, but she can't -- she's not
5 competent -- she's not a competent witness to talk 03:37:27
6 about this policy. And anything you get from her is
7 going to be completely irrelevant at trial.

8 Can't we just cut this part out and move on?

9 MR. BARR: No, Mr. Tryon, we cannot.

10 MR. TRYON: All right. Well, I'm -- 03:37:43

11 MR. BARR: I recall there is --

12 MR. TRYON: -- making my objection on the
13 record for any further questions on this, for this
14 witness.

15 MS. HOLCOMB: I'll likewise object. 03:37:51

16 If we're ready, I'll have her brought back in.

17 MR. BARR: Thank you.

18 (Lainey Armistead entered the room.)

19 BY MR. BARR:

20 Q Sorry for all the up-and-down, Ms. Armistead. 03:38:44

21 If you could scroll down to section 23,
22 please. And inside 23, go to the definition of
23 Title IX. It's maybe four pages after the section
24 starts.

25 A Okay. 03:39:22

1 MR. TRYON: I'm sorry, where are we?

2 MR. BARR: Mr. Tryon, we are looking at the
3 definition of Title IX in section 23 of Exhibit 43.

4 BY MR. BARR:

5 Q Ms. Armistead -- 03:39:38

6 MR. TRYON: Thank you.

7 BY MR. BARR:

8 Q Ms. Armistead, do you see that it says (as
9 read):

10 "'Title IX' means Title IX of the 03:39:40

11 Education Amendments of 1972.

12 Title IX prohibits discrimination on

13 the basis of sex in education programs

14 or activities receiving federal

15 financial assistance"? 03:39:49

16 Did I read that correctly?

17 A Yes.

18 Q Okay. So let's stay in section 23. Scroll up

19 just a little bit, and you'll see a definition for on

20 the basis of sex. Tell me when you're there. 03:40:04

21 A Got it.

22 Q (As read):

23 "'On the Basis of Sex' or 'Based on

24 Sex' means gender, gender identity,

25 including transgender status, sexual 03:40:17

Page 130

1 orientation and/or stereotypical
2 notions of what is female/feminine
3 versus male/masculine or a failure to
4 conform to those gender stereotypes."

5 Did I read that correctly? 03:40:30

6 A Yes.

7 Q Scroll up just a little bit further and you'll
8 see a definition for education program or activity.

9 Tell me when you see that.

10 A Got it. 03:40:53

11 Q (As read):

12 "'Education Program or Activity'

13 includes locations, events, or

14 circumstances over which the

15 University exercises substantial 03:41:00

16 control" --

17 I'm going to skip through the next part and
18 then go to "athletic programs."

19 Do you see that?

20 A Yes. 03:41:10

21 Q Did I read that correctly, knowing that I
22 excerpted part of that definition?

23 A Yes.

24 Q So let's scroll back down to the definition of

25 Title IX, the first definition you looked at. 03:41:27

Page 131

1 Do you see that?

2 A Yes.

3 Q So according to this policy, Title IX
4 prohibits discrimination on the basis of sex.

5 We just looked at what the definition of basis 03:41:44
6 of sex is, and it includes transgender status, doesn't
7 it?

8 MS. HOLCOMB: Object to form.

9 MR. TRYON: Objection.

10 THE WITNESS: That was -- 03:41:52

11 BY MR. BARR:

12 Q We can scroll up -- I'm sorry, I didn't mean
13 to cut you off. What did you say?

14 A That was written on -- what I read, yes.

15 Q Okay. So according to this policy, on the 03:42:06
16 basis of sex includes transgender status; is that
17 correct?

18 A That is what I read.

19 Q And according to this policy, on the basis of
20 sex includes gender identity; right? 03:42:22

21 MR. TRYON: I'm objecting to any further
22 questions on this document for this witness. Will you
23 give me a standing objection for that, please?

24 MR. BARR: Noted.

25 THE WITNESS: I don't know. 03:42:46

Page 132

1 BY MR. BARR:

2 Q Do you want to go back up and look at the
3 definition on the basis of sex again?

4 A That's not necessary.

5 Q Do you agree with me that on the basis of sex, 03:42:54
6 as it relates to this policy, includes transgender
7 status and gender identity?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: That's what I read.

10 BY MR. BARR: 03:43:07

11 Q And that education programs or activities
12 includes school-sponsored athletics; right?

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: It could mean that.

15 BY MR. BARR: 03:43:22

16 Q We just looked at the definition of education
17 programs and activities, and it included
18 school-sponsored athletics; right?

19 MS. HOLCOMB: Object to form.

20 THE WITNESS: That was the definition that was 03:43:37
21 presented.

22 BY MR. BARR:

23 Q So using the definitions that were presented
24 in this policy, Title IX prohibits discrimination on
25 the basis of transgender status or gender identity and 03:43:55

Page 133

1 school-sponsored athletics receiving federal financial
2 assistance; right?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I'm not really sure exactly what
5 the policy is talking about. 03:44:17

6 BY MR. BARR:

7 Q Would you agree with me that I read that
8 correctly, using the definitions provided in the
9 policy?

10 A I heard what you said based on the document 03:44:23
11 that you presented.

12 Q Did I say it correctly based on the document
13 that I presented?

14 A Yes.

15 Q Isn't that exactly what you are seeking to do 03:44:43
16 in this lawsuit?

17 MS. HOLCOMB: Object to form.

18 MR. TRYON: Objection.

19 THE WITNESS: No.

20 BY MR. BARR: 03:45:10

21 Q How isn't it?

22 MS. HOLCOMB: Object to form.

23 MR. TRYON: Objection.

24 THE WITNESS: I don't know.

25 ///

1 BY MR. BARR:

2 Q If you win in this lawsuit, wouldn't that mean
3 that B.P.J. would be excluded on the basis of her
4 transgender status and gender identity from
5 participating on the school-sponsored girls' team? 03:45:48

6 MS. HOLCOMB: Object to form.

7 MR. TRYON: Objection.

8 THE WITNESS: I'm not a lawyer, so I can't
9 answer that.

10 BY MR. BARR: 03:46:05

11 Q In any of the discovery responses that you've
12 prepared for this case, did you acknowledge that
13 B.P.J. would be excluded from the girls' team at her
14 school because of H.B. 3293?

15 MS. HOLCOMB: Object to form. 03:46:24

16 THE WITNESS: I don't know.

17 BY MR. BARR:

18 Q Did you review the discovery responses before
19 they were sent over to us?

20 A Yes. 03:46:35

21 Q Do you recall any discovery responses
22 regarding whether B.P.J. would be excluded from her --
23 her school's girls' cross-country team?

24 A I don't recall.

25 Q Let's keep talking about B.P.J. We earlier 03:46:53

Page 135

1 discussed that B.P.J. participated in several
2 cross-country events in the fall of 2021.

3 Do you remember that?

4 A I remember what you said about that.

5 Q And if I remember what you said, you didn't 03:47:19
6 have a -- an understanding of whether B.P.J.
7 participated, how many times she participated or how
8 she did. Is that accurate?

9 A Correct.

10 Q And, in fact, you didn't have an understanding 03:47:35
11 of what B.P.J. had done at all as it relates to
12 athletics, if I understood you correctly?

13 A I don't know anything -- I don't really know
14 B.P.J., the plaintiff, so I can't comment on her
15 personal -- their personal successes or how they do in 03:47:58
16 events.

17 Q Okay. I'm not asking you to accept my
18 terminology here, okay?

19 Will you accept that B.P.J. is a transgender
20 girl who played on a girls' team, just for the purposes 03:48:17
21 of this question? I'm not asking you to understand or
22 agree with my terminology.

23 MS. HOLCOMB: Object to form.

24 MR. TRYON: Objection.

25 ///

1 BY MR. BARR:

2 Q I'll just ask the question. I'm not trying to
3 be tricky. I just want to make sure that you
4 understand what I'm asking.

5 Given that B.P.J. is a transgender girl, do 03:48:38
6 you expect that she won the events that she
7 participated in?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: I --

10 MR. TRYON: Objection. 03:48:52

11 THE WITNESS: -- don't know.

12 BY MR. BARR:

13 Q What's your expectation based on what you told
14 me earlier about advantages?

15 MS. HOLCOMB: Same objection. 03:49:01

16 MR. TRYON: Objection.

17 THE WITNESS: I don't know how B.P.J.
18 performed, and I wouldn't be expected to know how
19 she -- they performed.

20 BY MR. BARR: 03:49:20

21 Q Would you be surprised if B.P.J. got last
22 place?

23 MR. TRYON: Objection.

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: I don't know. 03:49:32

Page 137

1 BY MR. BARR:

2 Q I realize you don't know how B.P.J. placed,
3 and I'm not asking that question.

4 My question is, would you be surprised if
5 B.P.J. got last? 03:49:48

6 A I understood your question, and again, I don't
7 know.

8 Q So you have no -- nothing would surprise you,
9 whether B.P.J. got first or last or something in
10 between? 03:50:00

11 MS. HOLCOMB: Object to form.

12 MR. TRYON: Objection.

13 THE WITNESS: That's not what I said.

14 BY MR. BARR:

15 Q Okay. What did you say? 03:50:38

16 A I just said I don't know, from your question.
17 In general, I would think that -- I believe that
18 biological males have advantages, but does that mean in
19 all cases that happens? Maybe; maybe not.

20 But I don't really know the specifics or what 03:51:00
21 to be expected from B.P.J. because I don't know that
22 person.

23 Q Okay. You raised a good question.

24 Do you expect that there might be exceptions
25 to these advantages that you've talked about? 03:51:13

Page 138

1 A I think that it's -- I'm bigger than some
2 biological males, but in general, biological males are
3 bigger, stronger, faster than me, and it should -- and
4 only biological women should be competing against me.

5 Q And that was for two reasons, fairness and 03:51:41
6 safety; right?

7 A Yes.

8 Q What safety concern do you have with middle
9 school cross-country and B.P.J. participating on the
10 girls' team? 03:51:58

11 MS. HOLCOMB: Object to form.

12 THE WITNESS: I'm intervening for all women
13 athletes and sports, and that includes contact sports
14 that I'm a part of.

15 BY MR. BARR: 03:52:18

16 Q B.P.J. is the plaintiff here, and B.P.J.
17 doesn't play a contact sport. So I'm asking where the
18 safety issue comes up -- comes in on middle school
19 cross-country.

20 MS. HOLCOMB: Same objection. 03:52:35

21 MR. TRYON: Objection.

22 THE WITNESS: My concerns are fairness and
23 safety for all women athletes in all sports.

24 BY MR. BARR:

25 Q Understood. What is the safety concern for 03:52:47

1 middle school cross-country and B.P.J. participating on
2 the girls' team?

3 MS. HOLCOMB: Object to form.

4 THE WITNESS: I don't know.

5 BY MR. BARR: 03:53:00

6 Q When it comes to fairness, what fairness are
7 you concerned about?

8 A In general, biological males are faster than
9 biological women.

10 Q So I'm not putting words in your mouth. 03:53:32

11 Is the concern that the transgender girl would
12 win the race to the detriment of the cisgender girl?

13 Is that the fairness concern?

14 MR. TRYON: Objection.

15 MS. HOLCOMB: Object to form. 03:53:44

16 THE WITNESS: That is not the only concern.

17 BY MR. BARR:

18 Q What are the other concerns?

19 A It's just not fair for biological males to
20 compete with biological women in any sports. 03:54:31

21 Q I heard you say that. I'm trying to
22 understand why you believe that.

23 MS. HOLCOMB: I'm sorry, was there a question?

24 MR. BARR: Yes.

25 ///

1 BY MR. BARR:

2 Q Why do you believe that?

3 A I believe I already answered that question.

4 Q Could you tell me it again because I certainly

5 didn't hear it. I'm trying to understand why you 03:55:03

6 believe that B.P.J. creates a fairness issue running

7 middle school cross-country on the girls' team?

8 MS. HOLCOMB: Objection to form.

9 MR. TRYON: Objection.

10 THE WITNESS: Because, in general, biological 03:55:23

11 males are stronger, fitter, faster than biological

12 women.

13 BY MR. BARR:

14 Q And if I understand you, the concern would be

15 that transgender girls would win and cisgender girls 03:55:38

16 would not because of these advantages you're talking

17 about; is that right?

18 MS. HOLCOMB: Objection to form.

19 THE WITNESS: I'm aware of my blessings and

20 opportunities that I was able to have because of the 03:55:57

21 fair playing that I have seen throughout my life, and I

22 want to make sure that I fight for that for other

23 women, to make sure that they are not having to compete

24 with biological males, in whatever sport that they do.

25 ///

1 BY MR. BARR:

2 Q I understand. And you've told me that you
3 want to do that for two reasons, safety and fairness;
4 is that right?

5 A Yes. 03:56:27

6 Q And we talked about safety with middle school
7 cross-country, and you stated you don't know what the
8 safety issue is with B.P.J. running cross-country on
9 the girls' team; right?

10 MS. HOLCOMB: Object to form. 03:56:49

11 THE WITNESS: I don't know.

12 BY MR. BARR:

13 Q Right. So the two things that you're
14 concerned about, safety and fairness, we've talked
15 about safety, and now I'm trying to understand what 03:57:04
16 would be unfair about B.P.J. running cross-country on
17 the girls' team at her middle school.

18 MR. TRYON: Objection.

19 MS. HOLCOMB: Objection to form.

20 THE WITNESS: H.B. 3293 is to promote equality 03:57:31
21 for all women in all sports, so I think that that
22 answers my -- your question.

23 BY MR. BARR:

24 Q Perhaps I'm just not following. I don't know
25 how that answers the question about what fairness issue 03:57:53

Page 142

1 arises with B.P.J. running on the girls' cross-country
2 team at her middle school.

3 MS. HOLCOMB: I'm going to object as asked and
4 answered multiple times.

5 MR. BARR: Attorney Holcomb, if you can tell 03:58:07
6 me what the answer is, I'll be happy to move on. I
7 haven't heard an answer yet.

8 MS. HOLCOMB: I think she's answered your
9 question at least three times to the best of her
10 ability. So it's asked and answered. 03:58:17

11 MR. BARR: I'll -- I'll try it a different
12 way.

13 BY MR. BARR:

14 Q Ms. Armistead, can you point to any specific
15 fairness issue you're concerned about as it relates to 03:58:25
16 B.P.J. running on the girls' cross-country team at her
17 middle school?

18 MS. HOLCOMB: Objection to form.

19 THE WITNESS: I am not certain for specifics
20 on her -- on B.P.J., but I do know that this law 03:59:04
21 promotes fairness and equality for all women, including
22 those who run cross-country at age 11 and college
23 athletes in a contact sport, such as myself.

24 BY MR. BARR:

25 Q Okay. Just to make sure that I've understood 03:59:26

1 you, you -- do not have a specific fairness issue to
2 point to based on my last question. Did I understand
3 that correctly?

4 MS. HOLCOMB: Object to form.

5 MR. TRYON: Objection. 03:59:37

6 THE WITNESS: That's not what I said. I just
7 said overall it's -- it wouldn't be fair for all women.

8 BY MR. BARR:

9 Q But specifics, there's no specific thing you
10 can point to for B.P.J.; right? 03:59:50

11 A I don't know.

12 MR. BARR: I -- I've introduced an exhibit.
13 It's actually previously marked as Exhibit 39. Let me
14 know when you have it.

15 THE WITNESS: Got it. 04:00:35

16 BY MR. BARR:

17 Q Have you ever heard of the Doddridge
18 Invitational cross-country meet?

19 A No.

20 Q If you would like to read the e-mail and look 04:00:45
21 at the exhibit, please let me know; otherwise, I'll
22 just ask my question. It's whatever is best for you.

23 A I read it.

24 Q Okay. If you could scroll down to page 2,
25 please, you'll see two tables. The table on the left 04:01:13

Page 144

1 says "BMS XC-Boys," and the table on the right says

2 "BMS XC-Girls."

3 Do you see that?

4 A Yes.

5 Q Do you know what BMS references? 04:01:32

6 A I do not.

7 Q I'll represent to you that it's Bridgeport

8 Middle School.

9 Have you ever heard of Bridgeport Middle

10 School? 04:01:46

11 A No.

12 Q Okay. And then on the table on the right, it

13 also says "BMS," which, again, is Bridgeport Middle

14 School.

15 Do you know what XC-Girls means? 04:01:56

16 A Yes.

17 Q What does that mean?

18 A Cross-country girls.

19 Q Okay. So let's focus on the table on the

20 right. 04:02:12

21 Do you see that there are approximately 20

22 names -- or 20 times listed? The names have been

23 redacted for privacy reasons. Do you see that?

24 A Yes.

25 Q And you see that one name has not been 04:02:29

Page 145

1 redacted, and that's B [REDACTED] P [REDACTED]-J [REDACTED].

2 Do you see that?

3 A Yes.

4 Q I'm going to represent to you that

5 B [REDACTED] P [REDACTED]-J [REDACTED] is B.P.J., the plaintiff in this 04:02:39
6 case, okay?

7 A Okay.

8 Q What do you think this table that is entitled
9 "BMS XC-Girls" is telling us?

10 MS. HOLCOMB: Object to form. 04:02:57

11 THE WITNESS: I don't know.

12 BY MR. BARR:

13 Q Does it look like it may be a listing of
14 individual students' times at the
15 Doddridge Invitational on Thursday, September 16th? 04:03:15

16 A Yes.

17 Q And if we look at that table on the right, it
18 has three columns, one for distance, one for actual
19 time and one for pace per mile.

20 Do you see that? 04:03:30

21 A Yes.

22 Q And this table on the right, we're just
23 talking about girls; right?

24 MS. HOLCOMB: Object to form.

25 THE WITNESS: That is what the document says. 04:03:49

Page 146

1 BY MR. BARR:

2 Q Okay. How did B.P.J. do at the
3 Doddridge Invitational, according to this table?

4 A B.P.J. ran 1.9 miles in 21 minutes and
5 50 seconds. 04:04:18

6 Q B.P.J. finished towards the back of the
7 Bridgeport Middle School girls; right?

8 MS. HOLCOMB: Object to form.

9 THE WITNESS: B.P.J. wasn't in the lead, no.

10 BY MR. BARR: 04:04:46

11 Q In fact, B.P.J. finished in 13th of 16
12 finishes; right?

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: That might be what the table
15 shows. 04:05:13

16 BY MR. BARR:

17 Q Do you see on the table how a few of the times
18 are highlighted yellow and the rest are white?

19 A Yes.

20 Q What does that yellow highlighting mean? 04:05:29

21 MS. HOLCOMB: Object to form.

22 THE WITNESS: I don't know.

23 BY MR. BARR:

24 Q Do you know how middle school cross-country
25 team times are determined? 04:05:45

Page 147

1 A No.

2 Q Would you have any basis to state that

3 B.P.J. impacted the team time --

4 MS. HOLCOMB: Object to form.

5 Sorry, I didn't mean to cut you off. 04:06:05

6 THE WITNESS: I don't know.

7 BY MR. BARR:

8 Q You don't know how the team time is

9 determined?

10 A Correct. 04:06:18

11 Q And, therefore, you would have no basis to

12 state whether B.P.J.'s times impacted the

13 Bridgeport Middle School team time; correct?

14 A I don't know.

15 Q I just want to make sure we're clear on the 04:06:37

16 record.

17 You don't know what?

18 A What was your question again?

19 Q I'm asking if you have any basis to state

20 whether B.P.J. impacted the Bridgeport Middle School 04:06:54

21 team time at the Doddridge Invitational.

22 MS. HOLCOMB: Object to form.

23 THE WITNESS: I don't know.

24 BY MR. BARR:

25 Q You don't know whether B.P.J. did or didn't 04:07:15

Page 148

1 impact it?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: I don't know.

4 BY MR. BARR:

5 Q So you wouldn't be in a position to state that 04:07:31

6 B.P.J. led to some other student's time not being

7 included in the team time; right?

8 A Can you say that again, please?

9 Q Sure. You're not in a position to state one

10 way or the other whether B.P.J.'s time impacted another 04:07:56

11 student's time included on the team time at the

12 Doddridge Invitational?

13 MS. HOLCOMB: Object to form.

14 THE WITNESS: Correct. I don't run

15 cross-country. I do know about soccer, though. 04:08:17

16 MR. BARR: I've introduced another exhibit.

17 It's previously been marked as Exhibit 40. Please let

18 me know when it appears.

19 THE WITNESS: Got it.

20 MS. HOLCOMB: I'm sorry, give me one moment. 04:09:02

21 Mine is still attempting to refresh.

22 MR. BARR: No problem. Tell me when you're

23 ready.

24 MS. HOLCOMB: All right. I'm ready. Thank

25 you. 04:09:22

1 MR. BARR: Sure.

2 BY MR. BARR:

3 Q Ms. Armistead, Exhibit 40, do you see tables
4 similar to the tables we just saw on Exhibit 39?

5 A They look similar. 04:09:31

6 Q But in this case, the right-hand table says
7 "BMS," which we've discussed is Bridgeport Middle
8 School, "XC-Girls," cross-country girls, for the
9 Ritchie County event on Saturday, October 1st.

10 Do you see that? 04:09:53

11 A Yes.

12 Q Do you have any understanding of what the
13 highlighted parts of this table mean?

14 A No.

15 Q How did B.P.J. do in this event? 04:10:07

16 MS. HOLCOMB: Object to form.

17 THE WITNESS: According to the table, she
18 didn't place -- B.P.J. didn't place in the top half.

19 BY MR. BARR:

20 Q And I'm happy for you to look at the rest of 04:10:45
21 Exhibit 40, and you can take as much time as you would
22 like, but I'll represent to you that B.P.J. never has
23 times that are highlighted in this exhibit.

24 But my understanding is you don't have an
25 understanding whether the highlighting has some 04:11:03

Page 150

1 indication one way or the other; is that right?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: As stated, I am not a
4 cross-country runner, so no, I don't know.

5 BY MR. BARR: 04:11:27

6 Q If you could scroll to the last page of
7 Exhibit 40.

8 Are you there?

9 A Yes.

10 Q You'll see at the top it says "Time Trial 04:11:42
11 Comparison."

12 Did I read that correctly?

13 A You did.

14 Q And then in the two columns to the right of
15 that, there's the cross-country time trial at 04:11:56
16 Bridgeport City Park on October 7th, 2021, and the
17 column to the right of that is the cross-country time
18 trial, Bridgeport City Park, on August 24th, 2021.

19 Do you see that?

20 A Yes. 04:12:12

21 Q Inside those columns, on the far left side,
22 there's a subcolumn that says "TT Place."

23 Do you see that?

24 A Yes.

25 Q What do you think TT Place means? 04:12:27

Page 151

1 MR. TRYON: Objection.

2 MS. HOLCOMB: I'm going to object to form.

3 THE WITNESS: I have no idea.

4 BY MR. BARR:

5 Q If I told you it meant time trial place, would 04:12:43
6 you be willing to accept that for purposes of this
7 exhibit?

8 MS. HOLCOMB: Object to form.

9 MR. TRYON: Objection.

10 THE WITNESS: Yes. 04:12:54

11 BY MR. BARR:

12 Q On October 7th, 2021, what place did
13 B.P.J. earn?

14 MS. HOLCOMB: Object to form.

15 THE WITNESS: According to this document, 04:13:21
16 24th.

17 BY MR. BARR:

18 Q How many participants are indicated to have
19 participated, on this document?

20 A 28. 04:13:29

21 Q So on October 7, 2021, according to
22 Exhibit 40, B.P.J. got 24th of 28 participants; is that
23 right?

24 A That's what the document indicates.

25 Q And let's move over to August 24th. 04:13:52

Page 152

1 What place did B.P.J. get on August 24th?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: 30th.

4 BY MR. BARR:

5 Q And I'm not going to ask you the total 04:14:15

6 participants, because that column is very hard to

7 interpret and I don't want to be unfair, but you would

8 agree with me that B.P.J. was at the very low end of

9 that table as well?

10 A Lower than others. 04:14:34

11 Q Lower than almost everybody else; right?

12 MS. HOLCOMB: Object to form.

13 THE WITNESS: That is what the document

14 indicates.

15 BY MR. BARR: 04:14:54

16 Q Do you still think it's unfair for B.P.J. to

17 participate?

18 MS. HOLCOMB: Object to form.

19 MR. TRYON: Objection.

20 THE WITNESS: It also looks like B.P.J. was 04:15:06

21 competing against people in sixth, seventh and eighth

22 grade. So I don't know if sixth-graders are typically

23 in the top of their class.

24 BY MR. BARR:

25 Q Based on this document, do you still think 04:15:33

Page 153

1 it's unfair for B.P.J. to have participated?

2 MS. HOLCOMB: Object to form.

3 MR. TRYON: Objection.

4 THE WITNESS: Based on this document, I don't

5 know. 04:15:49

6 BY MR. BARR:

7 Q Do you still believe B.P.J. has superior speed

8 compared to her classmates, having seen these

9 documents?

10 MR. TRYON: Objection. 04:16:05

11 MS. HOLCOMB: Objection to form.

12 THE WITNESS: This document doesn't really

13 give a fair comparison.

14 BY MR. BARR:

15 Q Why not? 04:16:15

16 A As I said, B.P.J. is competing with people in

17 sixth, seventh and eighth grade. And in my experience,

18 whenever I was in sixth grade, playing soccer, I was

19 having difficulties against the seventh- and

20 eighth-graders. 04:16:40

21 MR. BARR: Attorney Holcomb, we've been going

22 for about an hour. Do you want a break, or do you want

23 to keep going?

24 MS. HOLCOMB: Would you like a break, Lainey?

25 THE WITNESS: Let's go. 04:17:01

Page 154

1 MS. HOLCOMB: Andrew, any estimate of how much
2 longer you plan to go?

3 MR. BARR: No, sorry. Some of these questions
4 that I expected to go quick have taken a little longer
5 than anticipated. So I would hate to give any false 04:17:18
6 expectations there.

7 MS. MORGAN: Andrew, this is Kelly Morgan.
8 I'm just asking because of family obligations again
9 here. Are we looking at an hour or two --

10 THE VIDEOGRAPHER: Are we going to go off -- 04:17:29

11 MR. BARR: Let's go off the record.

12 THE VIDEOGRAPHER: Are we going to --

13 MR. BARR: Yeah, let's go off the record.

14 THE VIDEOGRAPHER: Okay. One moment.

15 We're going off the record. The time is 04:17:34
16 4:18 p.m., and this is the end of Media Unit No. 4.

17 (Recess.)

18 THE VIDEOGRAPHER: All right. We are back on
19 the record at 4:37 p.m., and this is the beginning of
20 Media Unit No. 5. 04:37:25

21 Please go ahead.

22 BY MR. BARR:

23 Q Ms. Armistead, I was going through my notes
24 and realized I didn't ask you the question I thought
25 was most important, which is, what's your favorite 04:37:34

Page 155

1 soccer team? Do you have one?

2 A Chelsea.

3 Q Kind of going through some tough times with
4 ownership of Chelsea at the moment, but -- okay. So
5 you do follow professional soccer?

04:37:48

6 A A little bit, yes.

7 Q Do you -- do you follow any women's
8 professional teams?

9 A I keep up with the U.S. women's national team
10 a little bit.

04:38:01

11 Q But other than the national team?

12 A No.

13 Q I'm a Liverpool fan, so I had to ask.

14 Okay. So, clearly, you love soccer. I

15 understand all that. I want to understand why you love
16 soccer. And, specifically, what do you get out of it?

04:38:19

17 A I get an opportunity to compete and -- I get
18 so much out of soccer. It keeps me in shape. I have
19 the ability to make great friends and lasting
20 connections with my teammates. And I'm still friends
21 with teammates from high school and club teams. And
22 I've learned a lot about perseverance and teamwork,
23 cooperation. There's so much that soccer has taught me
24 throughout my life, and I wouldn't be the person I am
25 today without it.

04:38:46

04:39:06

Page 156

1 Q I know you focused on soccer, but do you think
2 that would be true of most athletes' experience, having
3 played sports in a -- you know, as a child or adult?

4 MS. HOLCOMB: Object to form.

5 THE WITNESS: I believe that a lot of people 04:39:29
6 probably have the same experiences as I do, but I can't
7 speak for sure on other people's experiences.

8 BY MR. BARR:

9 Q Understood. You said you played club -- club
10 soccer. Did I hear that right? 04:39:41

11 A Yes.

12 Q Do you still play club stocker?

13 A No. I'm unable to do so due to being a
14 college athlete.

15 Q When did you start playing club soccer? 04:39:57

16 A Probably around seven or eight years old.

17 Q Did your school offer a soccer team when you
18 were seven or eight years old?

19 A I don't believe so. I just played club until
20 I was able to play in middle school. 04:40:21

21 Q When did your stop playing club soccer?

22 A My senior year of high school.

23 Q Were you ever invited to an ODP program,
24 Olympic developmental program?

25 A Yes. 04:40:43

Page 157

1 Q Did you attend?

2 A I attended for a little bit before moving
3 school -- or before moving across the state, so...

4 Q Where were you living before Owensboro?

5 A I am from Owensboro, and then I moved to 04:41:03
6 Louisville, Kentucky, and then I moved back to
7 Owensboro.

8 Q And those two cities are far enough apart you
9 had to change club teams as part of that move?

10 A Yes. 04:41:27

11 Q And did I understand that one of those teams
12 offered the ODP and the other one did not; is that
13 right?

14 A ODP is more of a state -- a state development
15 program. So I could have continued to do so, but where 04:41:40
16 I moved, it would have been three hours to drive
17 instead of just right beside my hometown.

18 Q How long did you participate in the ODP?

19 A I don't recall. Not long.

20 Q Not long? 04:42:08

21 Did you have the opportunity to do any
22 traveling for ODP?

23 A Not ODP, but I had the opportunity to travel
24 for my club team.

25 Q What -- what was the name of your club team? 04:42:21

Page 158

1 A Kentucky Fire.

2 Q Was that the -- did you have a different club
3 team when you moved and what was the name of that?

4 A Owensboro.

5 Q And it was when you were on Kentucky Fire that 04:42:39
6 you had the ODP opportunities; is that right?

7 A Yes.

8 Q How old were you when that happened?

9 A I don't remember.

10 Q I'm -- was it seven or eight when you started? 04:42:58
11 Was it when you were 18 as --

12 A Probably middle school.

13 Q Did you benefit from the ODP?

14 A I did not benefit from ODP, but I definitely
15 benefitted from club. 04:43:18

16 Q Did any of your schools offer a women's soccer
17 team before West Virginia State?

18 A High schools?

19 Q Sure. Did your high school have a women's
20 soccer team? 04:43:37

21 A Yes.

22 Q Did you play on it?

23 A I did.

24 Q Was your club team or your high school team
25 better? 04:43:54

Page 159

1 MS. HOLCOMB: Object to form.

2 THE WITNESS: I would probably say my club
3 team was better.

4 BY MR. BARR:

5 Q That's generally true, right, the club team is 04:44:06
6 a more select group of athletes than any particular
7 school, as a general matter?

8 A In general, yes.

9 Q Any of your club teammates play college
10 soccer? 04:44:28

11 MS. HOLCOMB: Object to form.

12 THE WITNESS: Yes.

13 BY MR. BARR:

14 Q Any of them playing with or against you in
15 Mountain East Conference? 04:44:41

16 A No.

17 Q Do you think those athletes benefitted from
18 soccer similarly to the way you did?

19 MS. HOLCOMB: Object to form.

20 THE WITNESS: I can't speak on their 04:44:59
21 experiences.

22 MR. TRYON: Excuse me, sorry to interrupt, but
23 Kelly just texted me, and she said she's in the waiting
24 room trying to get in, if the court reporter could let
25 her in. 04:45:17

Page 160

1 THE REPORTER: Ms. Morgan, are you in?

2 MS. MORGAN: Yes, I am. Thank you.

3 THE REPORTER: Okay. Sorry about that.

4 BY MR. BARR:

5 Q Do you have any social media accounts? 04:45:47

6 A Yes.

7 Q I admittedly don't, so please bear with me in
8 clunky language, but what platforms do you have an
9 account with?

10 A I have an account with Twitter, Instagram, 04:46:02
11 Facebook, Snapchat. And those are the only ones that I
12 use.

13 BY MR. BARR:

14 Q Do you use them daily?

15 A Most days. 04:46:24

16 Q Have people ever reached out to you on those
17 platforms to talk about this law or your participation
18 in the lawsuit?

19 A Yes.

20 Q Does it happen regularly? 04:46:52

21 A No.

22 Q Has it happened one time? five times? ten
23 times?

24 A I'm not sure. Not very many times.

25 Q More than once, less than 20; is that fair? 04:47:12

Page 161

1 A Yes.

2 Q More than five times, less than 20?

3 A I would probably just say less than ten, and
4 that's as close as I would feel comfortable getting.

5 Q Do you remember if that was via Facebook or 04:47:30
6 one of the other platforms you described?

7 A I think it was on Facebook and Twitter.

8 Q Have you ever sent a message or reached out to
9 people about this lawsuit or the law using one of those
10 social media accounts? 04:48:02

11 A No.

12 Q Has anyone ever e-mailed you about this law,
13 other than your attorneys?

14 A I don't think so.

15 Q Have you ever e-mailed anyone about this law? 04:48:22

16 A I shared information with a friend who was
17 interested in intervening.

18 Q Is that one of the friends you told me about
19 earlier, Sinead or Brooklyn?

20 A Yes. Sinead. 04:48:55

21 Q Are you familiar with the NCAA's image and
22 likeness policy?

23 A I am.

24 Q What's your understanding of how the -- is it
25 okay if I call it the NIL policy? 04:49:13

Page 162

1 A Yes.

2 Q What's your understanding of the NIL policy?

3 A My understanding is that athletes can benefit
4 from their name; and, two, they are -- sign contracts
5 with companies and be a name for a -- for a brand and 04:49:37
6 get paid for doing so.

7 Q Is it okay with you if I reference what you
8 just described as an endorsement?

9 A If that's how you want to reference it, sure.

10 Q We can call it whatever you'd like. I just am 04:49:59
11 trying to use a faster word than that whole
12 description.

13 A That's fine.

14 Q Are you currently under an endorsement deal
15 with anyone? 04:50:13

16 A No.

17 Q Do you have any plans to be under an
18 endorsement deal?

19 A I'm not sure. I would like to try. That
20 would be something I would be interested in. Of 04:50:31
21 course, it was just a very recent law that was created,
22 a new -- a new policy, so I haven't really looked into
23 it too much yet.

24 Q Is it accurate to say you'd be interested in
25 it, but sitting here today, you don't have any specific 04:50:54

Page 163

1 plans to enter into an endorsement deal?

2 A Yes.

3 Q Have you ever been interviewed related to this
4 lawsuit by someone other than your attorney?

5 A No. 04:51:16

6 Q No reporters, TV appearances, anything like
7 that?

8 A No.

9 Q Do you know who Selina Soule is?

10 A No. 04:51:39

11 Q Do you know who Chelsea Mitchell is?

12 A No.

13 Q Do you know who Christina Mitchell is?

14 A No.

15 Q Do you know who Alanna Smith is? 04:52:00

16 A No.

17 Q Do you know who Lanay Sultz is?

18 A No.

19 Q Do you know who Margaret O'Neil is?

20 A No. 04:52:13

21 Q Do you know who Cynthia Monteleone is?

22 A No.

23 Q Do you know who Madison Kenyon is?

24 A No.

25 Q Do you know who Mary Kate Marshall is? 04:52:26

Page 164

1 A No.

2 Q Do you know who Darcy Ashoff is?

3 A No.

4 Q Do you know anyone on the University of

5 Pennsylvania's women's swimming or diving team? 04:52:41

6 A I do not.

7 Q Do you know who Haley Tan is?

8 A No.

9 Q And just to make sure I'm being fair with you,

10 there's a chance the last name is Tani. 04:53:00

11 So do you know anyone named Haley Tani?

12 A No.

13 Q Do you know anyone who claims to have been

14 harmed by a transgender girl or woman playing on a

15 girls' team, specifically? 04:53:17

16 MS. HOLCOMB: Object to form.

17 THE WITNESS: No, I don't know personally.

18 BY MR. BARR:

19 Q Have you spoken with any of the people I just

20 named? 04:53:30

21 A No, I don't think so. No.

22 Q I have a list of about 25 more people. I can

23 cut that short if I just understand that you haven't

24 spoken to anyone who's claimed to have been harmed by a

25 transgender woman's participation on a girls' team. Is 04:53:51

Page 165

1 that accurate?

2 MS. HOLCOMB: Object to form.

3 THE WITNESS: I don't -- I don't know the
4 names -- I don't know how to give you that information
5 without --

04:54:10

6 BY MR. BARR:

7 Q I'll just go through them. That's fine. I
8 was just trying to make this --

9 A I -- I wouldn't know the names. I've talked
10 to two girls that were clients of Christiana's, but I 04:54:18
11 don't know -- or recall their names.

12 Q Are those two girls a party to this lawsuit?

13 A No.

14 Q When did you speak to them?

15 A After I decided to intervene, probably. Maybe 04:54:40
16 before.

17 Q How did you locate these two girls?

18 MS. HOLCOMB: And I'll just object generally
19 to the extent it calls for attorney-client privileged
20 communications. 04:55:01

21 You may answer.

22 THE WITNESS: Just by Christiana.

23 BY MR. BARR:

24 Q What did you discuss with these two girls?

25 A They just told me about their experiences that 04:55:24

Page 166

1 they've had in their lawsuits, and that was the extent
2 of it.

3 Q Did you ask to speak with them, or did they
4 ask to speak with you?

5 MS. HOLCOMB: Object to form. 04:55:45

6 THE WITNESS: I don't know how to answer that
7 without divulging client-attorney privilege.

8 BY MR. BARR:

9 Q I'll -- I'll ask a different way because I
10 certainly don't want any privileged communications. 04:55:59

11 Did you ask to be put in touch with these two
12 girls?

13 A I could have. I don't recall.

14 Q You don't know their names?

15 A I do not recall their names. 04:56:23

16 Q And if I'm understanding correctly, you found
17 these two girls through your counsel?

18 A Yes.

19 Q Did these two girls encourage you to intervene
20 in this case? 04:56:51

21 A They just told me about their experiences.

22 Q What experiences are you talking about?

23 A Their experience with their lawsuits.

24 Q What did they tell you?

25 A I don't recall specifics of the conversation, 04:57:20

Page 167

1 but it was encouraging, what they told me. That's what
2 I remember from it.

3 Q What do you mean it was encouraging, what they
4 told you? Encouraging what?

5 A It wasn't encouraging anything specifically. 04:57:36
6 It was just encouraging to me what they were saying.

7 Q I understood. I misunderstood.

8 So you found the conversation encouraging.

9 I -- I feel like I might have misunderstood
10 that. 04:57:52

11 So is that what you're saying, you found the
12 conversation encouraging?

13 A Yes.

14 Q And you don't remember if this happened before
15 or after you decided to intervene? 04:58:02

16 MS. HOLCOMB: Objection to form.

17 THE WITNESS: I do not recall.

18 BY MR. BARR:

19 Q Was it before or after you were put in touch
20 with your attorney? 04:58:17

21 MS. HOLCOMB: Objection to form.

22 THE WITNESS: Well, I said -- I already
23 answered that.

24 BY MR. BARR:

25 Q Maybe I misunderstood. 04:58:32

Page 168

1 Your -- so your -- your attorney put you in
2 touch with these people; you just don't remember who
3 asked for the contact; is that correct?

4 A Yes.

5 Q Have you spoken with those two girls more than 04:58:49
6 once?

7 A No.

8 Q Other than those two girls, have you spoken
9 with anyone else about this lawsuit beyond your family,
10 those two friends you told me about and your attorneys? 04:59:03

11 A Yes.

12 Q Who else?

13 A My best friend.

14 Q And who is that?

15 A Allison. 04:59:16

16 Q You might have told me that earlier, and I may
17 have forgotten, so I apologize if that's what happened.

18 What is Allison's last name?

19 A Raymond.

20 Q Is Allison a classmate of yours? 04:59:27

21 A No. She is a hometown friend. We went to
22 high school together.

23 Q Anyone else?

24 A Yes. Two other hometown friends.

25 Q Who -- who are those friends? 04:59:45

Page 169

1 A Savanna and Haley.

2 Q Anyone else?

3 A My extended family, when they visited for the
4 holidays.

5 Q What was the nature of those discussions? 05:00:03

6 A I wanted to keep them updated on my life, and
7 I told them about H.B. -- the law -- 3293, and all of
8 my family was encouraging and supportive.

9 Q And just so you know, if you say "the law," I
10 understand you're talking about H.B. 3293. It's very 05:00:30
11 hard for me to remember the number, so I'm very
12 sympathetic to that.

13 Did you write an op-ed?

14 A I'm sorry?

15 Q Did you write an opinion piece for a 05:00:55
16 newspaper?

17 A I -- I don't know what you're talking about.

18 Q Okay. So sitting here today, everything we've
19 talked about, do you object to B.P.J. playing on the
20 Bridgeport Middle School girls' cross-country team? 05:01:15

21 MS. HOLCOMB: Objection to form.

22 THE WITNESS: I don't know.

23 MR. BARR: Okay. That's it for me. I'm happy
24 to turn it over to everyone else. I do want a couple
25 of minutes just to make sure that my notes are clean. 05:01:32

Page 170

1 So I do reserve that right, but I'm happy to pass it to
2 Mr. Tryon or whoever else is in line.

3 And -- and, Ms. Armistead, thank you for your
4 time today. I apologize for a long day on a Friday,
5 but hopefully you're able to make whatever -- whatever 05:01:47
6 plans you had tonight still.

7 THE WITNESS: Thank you.

8 MR. TRYON: Hello, Ms. Armistead. How are
9 you?

10 THE WITNESS: I'm good. How are you? 05:02:03

11 MR. TRYON: I'm good. So thank you so much
12 for your time. We always appreciate when deponents
13 come in and take their time to participate in these --
14 these situations.

15 And I have no questions, so thank you for your 05:02:14
16 time.

17 MS. DENIKER: This is Susan Deniker. I have
18 no questions. Thank you.

19 MS. MORGAN: This is Kelly Morgan. I don't
20 have any questions. Thank you, Lainey. 05:02:34

21 MS. ROGERS: This is Shannon Rogers. I don't
22 have any questions. Thank you.

23 MR. TRYON: So can we go off the record now?
24 Are we done?

25 MR. BARR: I believe Attorney Holcomb may or 05:02:59

Page 171

1 may not have questions. I just want to make sure that
2 it's clear.

3 MS. HOLCOMB: I do not have any questions.
4 Thank you. Just wanted to confirm there were no
5 further defendants. 05:03:09

6 MR. BARR: And with -- we -- we can go off the
7 record. And there's too many people on the same thing
8 to understand who is going to speak next, so I -- I
9 understand that.

10 THE VIDEOGRAPHER: So we -- are we done for 05:03:15
11 the day, then, or are we going to come back on?

12 MR. BARR: I -- I believe we're finished
13 unless I hear otherwise --

14 THE VIDEOGRAPHER: Okay.

15 MR. BARR: -- from counsel. 05:03:22

16 THE VIDEOGRAPHER: So I'm -- I'm going go
17 close the record then. All right?

18 Okay. We are off the record at 5:04 p.m., and
19 this ends today's testimony given by Lainey Armistead.

20 The total number of media used was five and 05:03:35
21 will be retained by Veritext Legal Solutions.

22 (TIME NOTED: 5:03 p.m.)
23
24
25

1 I, LAINEY ARMISTEAD, do hereby declare under
2 penalty of perjury that I have read the foregoing
3 transcript; that I have made any corrections as appear
4 noted, in ink, initialed by me, or attached hereto;
5 that my testimony as contained herein, as corrected, is
6 true and correct.

7 EXECUTED this ____ day of _____,
8 20____, at _____, _____.
9 (City) (State)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LAINEY ARMISTEAD
VOLUME I

1 RE: BPJ vs. WEST VIRGINIA STATE BOARD OF EDUCATION
2 LAINEY ARMISTEAD (JOB NO. 5082427)

3
4 E R R A T A S H E E T

5 PAGE_____ LINE_____ CHANGE_____

6 _____

7 REASON_____

8 PAGE_____ LINE_____ CHANGE_____

9 _____

10 REASON_____

11 PAGE_____ LINE_____ CHANGE_____

12 _____

13 REASON_____

14 PAGE_____ LINE_____ CHANGE_____

15 _____

16 REASON_____

17 PAGE_____ LINE_____ CHANGE_____

18 _____

19 REASON_____

20 PAGE_____ LINE_____ CHANGE_____

21 _____

22 REASON_____

23 _____

24 _____

25 LAINEY ARMISTEAD Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

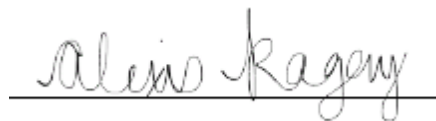
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: March 25, 2022

A handwritten signature in cursive script, reading "Alexis Kagay", is written over a horizontal line.

ALEXIS KAGAY

CSR NO. 13795